Ohio, asking for an exemption clause in House bill 15345, for the organization of the militia—to the Committee on the Militia.

Also, petition of 3 retail druggists of Mowrystown, Ohio, urging the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. KAHN: Resolutions of the Sailors' Union of the Pacific, for the repeal of the desert-land law—to the Committee on the Public Lands.

Also, resolutions of the Chamber of Commerce of San Francisco, Cal., favoring American register for British bark *Pyrenees*—to the Committee on the Merchant Marine and Fisheries.

By Mr. KEHOE: Petition of sundry citizens of Maysville, Ky., and vicinity, for 9-foot draft of water in the Ohio River—to the Committee on Rivers and Harbors.

By Mr. KNOX: Resolutions of the City Council of Boston, Mass., protesting against the establishment of a depot for the light-house service on Castle Island, Boston Harbor—to the Committee on Appropriations.

By Mr. LLOYD: Petition of retail druggists of Hannibal, Mo., urging the passage of House bill 178, for the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. McCLEARY: Resolutions of Typographical Union No. 42, Minneapolis, Minn., relative to amendment of the United States land laws—to the Committee on the Public Lands.

Also, resolutions of the same relative to second-class mail matter—to the Committee on the Post-Office and Post-Roads.

By Mr. McCLELLAN: Resolutions of the American Chamber of Commerce, of Paris, France, in favor of the adoption of the metric system in the United States—to the Committee on Coinage, Weights, and Measures.

By Mr. RIXEY: Papers to accompany House bill for the relief of the legal representatives of E. A. W. Hooe, of Stafford County, Va.—to the Committee on War Claims.

By Mr. ROBB: Petition of J. D. Spain, of Saco, Mo., in favor of House bill 178, for reduction of tax on distilled spirits—to the Committee on Ways and Means.

By Mr. RUCKER: Petition of Geo. T. Bell and other retail druggists of Bucklin, Mo., favoring House bill No. 178—to the Committee on Ways and Means.

By Mr. SKILES: Paper to accompany House bill for increase of pension of Joseph Mitchell—to the Committee on Invalid Pensions.

By Mr. WM. ALDEN SMITH: Petition of various societies in Allendale, Ottawa County, Mich., in favor of an amendment to the Constitution defining legal marriage to be monogamic, etc.—to the Committee on the Judiciary.

Also, protest of two Congregational churches and certain societies of Allendale, Mich., against the repeal of the anticanteen law—to the Committee on Military Affairs.

Also, petitions of the Woman's Christian Temperance Union, two Congregational churches, Wesleyan Methodist Church, of Allendale, and Wesleyan Methodist Church, of Blenden, Mich., to prohibit liquor selling in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. SNODGRASS: Petition of three retail druggists of Spring City and Lorraine, Tenn., favoring House bill 178—to the Committee on Ways and Means.

By Mr. SULZER: Resolutions of Aaron Wise Lodge, No. 244, Order of B'rith Abraham, of New York City, relating to methods of the Immigration Bureau at the port of New York—to the Committee on Immigration and Naturalization.

Also, resolutions of the Paint Grinders' Association of the United States, urging legislation to empower the Interstate Commerce Commission to establish uniform freight classification and freights—to the Committee on Interstate and Foreign Commerce.

Also, resolution of New York Stereotypers' Union No. 1, in reference to public lands, and favoring the repeal of the desert-land act—to the Committee on the Public Lands.

Also, resolutions of the American Chamber of Commerce of Paris, France, in favor of the adoption of the metric system in the United States—to the Committee on Coinage, Weights, and Measures.

By Mr. THOMAS of Iowa: Petitions of the Woman's Christian Temperance Union and the Methodist Episcopal Church of Ashton, Iowa; the First Methodist Episcopal Church, Lake Side Presbyterian Church, German Methodist Episcopal Church, and the First Baptist Church of Storm Lake, Iowa, in favor of the enactment of laws prohibiting the sale of intoxicating liquors in Government buildings and in immigrant stations—to the Committee on Alcoholic Liquor Traffic.

By Mr. THOMAS of North Carolina: Petition by citizens of Craven County, N. C., for the construction of the inland waterway—to the Committee on Rivers and Harbors.

By Mr. YOUNG: Resolution of the American Chamber of Commerce of Paris, France, in favor of the adoption of the metric system in the United States—to the Committee on Coinage, Weights, and Measures.

SENATE.

TUESDAY, *February 3, 1903.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. HALE, and by unanimous consent, the further reading was dispensed with.

FINDINGS OF THE COURT OF CLAIMS.

The PRESIDENT pro tempore laid before the Senate a communication from the assistant clerk of the Court of Claims, transmitting a certified copy of the findings filed by the court in the cause of John Q. Everson and others and John Lippincott and others *v.* The United States; which, with the accompanying papers, was referred to the Committee on Claims, and ordered to be printed.

BALTIMORE AND WASHINGTON TRANSIT COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Baltimore and Washington Transit Company for the year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

BRIGHTWOOD RAILWAY COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Brightwood Railway Company of the District of Columbia for the year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

WASHINGTON RAILWAY AND ELECTRIC COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Washington Railway and Electric Company for the year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

GEORGETOWN AND TENNALLYTOWN RAILWAY COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Georgetown and Tennallytown Railway Company for the year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

METROPOLITAN RAILROAD COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Metropolitan Railroad Company for the year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

COLUMBIA RAILWAY COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Columbia Railway Company for the fiscal year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

ANACOSTIA AND POTOMAC RIVER RAILROAD COMPANY.

The PRESIDENT pro tempore laid before the Senate the annual report of the Anacostia and Potomac River Railroad Company for the year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

CITY AND SUBURBAN RAILWAY.

The PRESIDENT pro tempore laid before the Senate the annual report of the City and Suburban Railway of Washington for the year ended December 31, 1902; which was referred to the Committee on the District of Columbia, and ordered to be printed.

CREDENTIALS.

Mr. SIMMONS presented the credentials of Lee S. Overman, chosen by the legislature of the State of North Carolina a Senator from that State for the term beginning March 4, 1903; which were read, and ordered to be filed.

CHAPLAINS IN THE NAVY.

Mr. HALE. I move to reconsider a matter presented yesterday where a document was ordered printed. I move to reconsider the vote for the purpose of moving afterwards that the same paper be printed in connection with another, so that they may appear together.

The PRESIDENT pro tempore. Will the Senator name the document?

Mr. HALE. The order of the Senate is found on page 1561 of the RECORD, under the heading, "Chaplains in the Navy."

The PRESIDENT pro tempore. The Senator from Maine moves to reconsider the vote by which the Senate agreed to the printing of a document in relation to chaplains in the Navy. The Chair hears no objection, and the vote is reconsidered.

Mr. HALE. I now move that the paper be printed as a document, and that there be added to it a letter from the Secretary of the Navy on the same subject.

The PRESIDENT pro tempore. The Senator from Maine moves

that the paper be printed, in connection with the papers he now sends to the desk, as a document.

Mr. HALE. And referred to the Committee on Naval Affairs.

The PRESIDENT pro tempore. The Chair hears no objection, and that order is made.

PETITIONS AND MEMORIALS.

Mr. SCOTT presented a petition of Lodge No 236, Brotherhood of Locomotive Firemen, of Hinton, W. Va., praying for the repeal of the desert-land law and the commutation clause of the homestead act; which was referred to the Committee on Public Lands.

Mr. NELSON presented a petition of Camp No. 4251, Modern Woodmen of America, of Villard, Minn., praying for the enactment of legislation providing for the improved economy of the forest resources of the country; which was referred to the Committee on Public Lands.

He also presented a petition of Lodge No. 510, Brotherhood of Locomotive Firemen, of Minneapolis, Minn., and a petition of Carpenters and Joiners' Local Union No. 307, American Federation of Labor, of Winona, Minn., praying for the repeal of the desert-land law and the commutation clause of the homestead act; which were referred to the Committee on Public Lands.

He also presented a petition of Duluth City Lodge, No. 133, Order of B'rith Abraham, of Duluth, Minn., and a petition of Minneapolis City Lodge, No. 63, Order of B'rith Abraham, of Minneapolis, Minn., praying for the enactment of legislation to modify the methods and practice pursued by the immigration officers at the port of New York; which were referred to the Committee on Immigration.

He also presented petitions of Local Union No. 91, of Minneapolis; of Local Union No. 22, of Mankato; of Carpenters and Joiners' Local Union No. 7, of Minneapolis; of Local Union No. 36, of St. Paul, and of Granite Polishers' Local Union No. 9481, of St. Cloud, all of the American Federation of Labor, in the State of Minnesota, praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

He also presented petitions of the congregation of the Congregational Church of Owatonna; of the Woman's Christian Temperance Union of Wabasso; of the Zion Society, Evangelical Association, and Woman's Christian Temperance Union of Preston; of the Woman's Christian Temperance Union of Buffalo; of the Political Equality Club of St. Paul; of the Sacred Thirst Total Abstainers' Society of St. Paul, and of the Woman's Christian Temperance Union of Clinton, all in the State of Minnesota, praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Government buildings; which were referred to the Committee on Public Buildings and Grounds.

Mr. BEVERIDGE presented a petition of the Manufacturers' Association, of Peru, Ind., praying for the passage of the so-called eight-hour bill; which was ordered to lie on the table.

Mr. SPOONER presented a petition of the Woman's Christian Temperance Union of Lafayette, Wis., and a petition of the congregation of the Good Shepherd Church, of Racine, Wis., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Government buildings; which were referred to the Committee on Public Buildings and Grounds.

He also presented a petition of Kaukauna Lodge, No. 474, International Association of Machinists, of Kaukauna, Wis., praying for the repeal of the desert-land law and the commutation clause of the homestead act; which was referred to the Committee on Public Lands.

He also presented a memorial of the Woman's Christian Temperance Union of Livingston, Wis., remonstrating against the repeal of the present anticanteen law, and praying for the enactment of legislation to prohibit the sale of intoxicating liquors in immigrant stations and Government buildings, and also for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on Military Affairs.

Mr. MARTIN presented a petition of Norfolk Lodge, No. 248, Order of B'rith Abraham, of Norfolk, Va., and a petition of Newport News Lodge, No. 231, Order of B'rith Abraham, of Newport News, Va., praying for the enactment of legislation to modify the methods and practice pursued by the immigration officers at the port of New York; which were referred to the Committee on Immigration.

Mr. TELLER presented a petition of the Produce Exchange of Seattle, Wash., praying for the enactment of legislation to open the land of the Territory of Alaska to settlement and the mineral wealth of that Territory to the industry of the United States; which was referred to the Committee on Territories.

He also presented a memorial of the directors of the El Paso branch of the Colorado Humane Society, remonstrating against the enactment of legislation relative to the interstate transportation of live stock; which was referred to the Committee on Interstate Commerce.

He also presented a petition of sundry citizens of Timnath, Colo., praying for the adoption of an amendment to the Constitution to prohibit polygamy; which was referred to the Committee on the Judiciary.

He also presented a petition of sundry citizens of the State of Colorado, praying for the enactment of legislation to amend the internal-revenue law so as to reduce the tax on distilled spirits; which was ordered to lie on the table.

He also presented a petition of the Woman's Club of Colorado Springs, Col., and a petition of the Colorado State Medical Society, of Denver, Colo., praying for the establishment of a laboratory for the study of the criminal, pauper, and defective classes; which were ordered to lie on the table.

He also presented a petition of Queen City Lodge, No. 113, Order of B'rith Abraham, of Denver, Col., and a petition of Western Lodge, No. 301, Order of B'rith Abraham, of Denver, Col., praying for the enactment of legislation to modify the methods and practice pursued by the immigration officers at the port of New York; which were referred to the Committee on Immigration.

He also presented petitions of Carpenters and Joiners' Local Union No. 850, of Leadville; of Local Union No. 5, of Florence; of Carpenters and Joiners' Local Union No. 489, of Canon City; of Ward Miners' Local Union, No. 59, of Ward, and of Local Union No. 4, of Colorado Springs, all of the American Federation of Labor; of Local Division No. 451, Brotherhood of Locomotive Engineers, of Denver, and of Local Division No. 515, Brotherhood of Locomotive Engineers, of Basalt, all in the State of Colorado, praying for the passage of the so-called eight-hour bill; which were ordered to lie on the table.

He also presented petitions of the Trades and Labor Assembly of Canyon City; of Federal Labor Union, No. 1, of Canyon City; of the Operative Plasterers' International Association, of Canyon City; of Bricklayers and Masons' Local Union No. 3, of Canyon City; of Teamsters and Expressmen's Local Union No. 1, of Canyon City; of Carpenters and Joiners' Local Union No. 55, of Denver; of Cigar Makers' Local Union No. 129, of Denver; of Local Union No. 475, of Florence, and of Typographical Union No. 82, of Colorado Springs, all of the American Federation of Labor, and of Royal George Lodge, No. 59, Brotherhood of Locomotive Firemen, of Pueblo, all in the State of Colorado, praying for the repeal of the desert-land law and the commutation clause of the homestead act; which were referred to the Committee on Public Lands.

Mr. FOSTER of Washington presented a petition of the State Federation of Labor, of American Federation of Labor, of Seattle, Wash., praying for the passage of the so-called eight-hour bill; which was ordered to lie on the table.

He also presented a petition of the Trades Council, American Federation of Labor, of Tacoma, Wash., praying for the repeal of the desert-land law and the commutation clause of the homestead act; which was referred to the Committee on Public Lands.

He also presented a petition of sundry citizens of Seattle, Wash., praying for the adoption of certain amendments to the so-called pure-food bill; which was ordered to lie on the table.

He also presented petitions of sundry citizens of Spokane, Wash., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in immigrant stations and in Government buildings; which were ordered to lie on the table.

Mr. MORGAN. I present the petition of Hinton Rowan Helper, relating to a projected intercontinental railway through the three Americas. The petitioner asks that his petition may be printed, and I move that it be referred to the Committee on Printing to ascertain whether it ought to be printed or not.

The motion was agreed to.

Mr. CLAPP presented a petition of the congregation of the Stewart Memorial Presbyterian Church, of Minneapolis, Minn., praying for the enactment of legislation to prohibit the sale of intoxicating liquors in Government buildings; which was referred to the Committee on Public Buildings and Grounds.

Mr. FRYE presented a petition of Empire State Lodge, No. 69, of Rochester, N. Y., praying for the enactment of legislation to modify the methods and practice pursued by the immigration officers at the port of New York; which was referred to the Committee on Immigration.

VOLCANOES IN NICARAGUA.

Mr. MORGAN. I present a letter from the Secretary of State, inclosing the report of a special agent of that Department, which I send to the desk and ask to have read.

The PRESIDENT pro tempore. The Secretary will read the letter of transmittal.

The Secretary read as follows:

DEPARTMENT OF STATE,
Washington, January 31, 1905.

Hon. JOHN T. MORGAN,
Chairman Committee on Interoceanic Canals,
United States Senate.

SIR: I have the honor to inclose herewith, for the information of your committee, a copy of the report of Mr. James O. Jones, who was sent as a special agent of the Department of State to obtain certain facts as to what

effects, if any, the recent seismic disturbances in Guatemala, Costa Rica, and Nicaragua have had upon the level of the waters in lakes Nicaragua and Managua.

I have the honor to be, sir, your obedient servant,

JOHN HAY.

Mr. MORGAN. I move that the letter and accompanying paper be printed as a document and referred to the Committee on Interoceanic Canals.

The motion was agreed to.

Mr. MORGAN. In this connection I also ask to have printed a document on the volcanoes of Nicaragua, prepared for the Government of Nicaragua by P. W. Chamberlain, civil engineer, and a member of the American Society of Civil Engineers, which has been sent here by our consul at Managua. I ask that the paper be printed in connection with the report of Mr. Jones, as it relates to the same subject.

The PRESIDENT pro tempore. The Senator from Alabama asks that the document presented by him be printed with the report transmitted by the Department of State. Is there objection? The Chair hears none, and it is so ordered, and the entire document will be printed, and referred to the Committee on Interoceanic Canals.

REPORT OF COMMITTEES.

Mr. BURNHAM, from the Select Committee on Industrial Expositions, to whom was referred the amendment submitted by himself on the 14th instant, proposing to appropriate $25,000 to enable the inhabitants of the Indian Territory to provide and maintain an exhibit of the products and resources of that Territory at the Louisiana Purchase Exposition, in the city of St. Louis, Mo., intended to be proposed to the sundry civil appropriation bill, reported favorably thereon, and moved that it be printed, and, with the accompanying paper, referred to the Committee on Appropriations; which was agreed to.

Mr. CARMACK, from the Committee on Pensions, to whom was referred the bill (H. R. 11596) granting an increase of pension to Inez L. Clift, reported it without amendment, and submitted a report thereon.

Mr. DEBOE, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 4441) granting an increase of pension to Oscar Brewster;

A bill (H. R. 12971) granting a pension to Thomas Martin, and;

A bill (H. R. 15889) granting an increase of pension to Chester W. Abbott.

Mr. GALLINGER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 16148) granting an increase of pension to Harry F. Libby; and

A bill (H. R. 13358) granting a pension to Elizabeth A. Wilder.

Mr. MORGAN, from the Committee on Foreign Relations, to whom was referred the joint resolution (S. R. 160) to authorize A. G. Menocal to accept a decoration, reported it without amendment.

Mr. FOSTER of Washington, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 12410) granting an increase of pension to Mary Nichols;

A bill (H. R. 15472) granting an increase of pension to William H. Chamberlin; and

A bill (H. R. 8617) granting a pension to Sabina Lalley.

Mr. FOSTER of Washington, from the Committee on Pensions, to whom was referred the bill (H. R. 15757) granting a pension to Frances C. Broggan, reported it with amendments, and submitted a report thereon.

Mr. TURNER, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 4153) granting a pension to Jane Hale;

A bill (H. R. 13999) granting an increase of pension to Dennis Cosier; and

A bill (H. R. 9814) granting an increase of pension to Mary Williams.

Mr. SCOTT, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 4183) granting an increase of pension to Gottlieb Kafer; and

A bill (H. R. 14143) granting an increase of pension to Augusta W. Seely.

Mr. BERRY, from the Committee on Commerce, to whom was referred the bill (S. 7159) authorizing the Memphis, Helena and Louisiana Railway Company to construct and maintain a bridge across St. Francis River, in the State of Arkansas, reported it without amendment, and submitted a report thereon.

Mr. BURTON, from the Committee on Pensions, to whom were referred the following bills, reported them severally without amendment, and submitted reports thereon:

A bill (H. R. 15839) granting an increase of pension to Luther Scott; and

A bill (H. R. 15892) granting an increase of pension to Eli Titus.

Mr. FORAKER, from the Committee on Pacific Islands and Porto Rico, to whom was referred the bill (S. 6599) to provide a government for the island of Guam, and for other purposes, reported it with an amendment.

Mr. FAIRBANKS, from the Committee on the Judiciary, to whom was referred the bill (S. 6773) to expedite the hearing and determination of suits in equity pending or hereafter brought under the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," reported it with amendments.

NATIONAL-BANK RESERVES.

Mr. ALLISON. I am directed by the Committee on Finance, to whom was referred the bill (H. R. 7659) to amend section 1 of an act entitled "An act to amend sections 5191 and 5192 of the Revised Statutes of the United States, and for other purposes," to report it with amendments, and I ask unanimous consent for its present consideration.

The Secretary read the bill, and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendments of the Committee on Finance were, on page 1, line 2, before the word "thousand," to strike out "fifteen" and insert "thirty;" on page 2, line 3, after the word "Comptroller," to strike out the words "with the approval of the Secretary of the Treasury;" in line 5, after the word "city," to strike out the words "so designated," and in line 10, after the word "Statutes," to strike out the proviso in the following words:

Provided, That no bank with a capital of less than $100,000 shall be thus designated.

So as to make the bill read:

Be it enacted, etc., That section 1 of an act entitled "An act to amend sections 5191 and 5192 of the Revised Statutes of the United States, and for other purposes," approved March 3, 1887, be, and the same is hereby, amended to read as follows:

"That whenever three-fourths in number of the national banks located in any city of the United States having a population of 30,000 people shall make application to the Comptroller of the Currency, in writing, asking that the name of the city in which such banks are located shall be added to the cities named in sections 5191 and 5192 of the Revised Statutes, the Comptroller shall have authority to grant such request, and every bank located in such city shall at all times thereafter have on hand, in lawful money of the United States, an amount equal to at least 25 per cent of its deposits, as provided in sections 5191 and 5195 of the Revised Statutes."

The amendments were agreed to.

The bill was reported to the Senate as amended.

Mr. ALLISON. Before the bill is finally disposed of, I desire to say a single word in explanation.

The only object of the bill is to strike out "fifteen thousand" in the sections of the Statutes named and to insert "thirty thousand," so that in cities of 30,000 inhabitants these banks may have reserves. That is the only change. The House fixed it at 15,000 and we insert 30,000. I hope the bill will be passed.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

ISSUANCE OF A DUPLICATE CHECK.

Mr. TELLER. I am instructed by the Committee on Finance, to whom was referred the bill (H. R. 15747) directing the issue of a check in lieu of a lost check drawn by George A. Bartlett, disbursing clerk, in favor of Fannie T. Sayles, executrix, and others, to report it favorably without amendment.

Mr. BEVERIDGE. Mr. President, I ask unanimous consent for the immediate consideration of the bill which has just been reported by the Senator from Colorado.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It recites in the preamble that whereas it appears that George A. Bartlett, disbursing clerk, Treasury Department, did, on the 19th of July, 1902, issue a check, No. 1813553, upon the Treasurer of the United States at Washington, District of Columbia, in favor of Fannie T. Sayles, executrix, and others, for $3,708.33, being in payment for rent of a building in Indianapolis, Ind., for quarters for Government offices; and that the check was by Fannie T. Sayles, executrix, and others, indorsed for deposit in the Merchants' National Bank, Indianapolis, Ind., and so deposited, which check was subsequently mailed by the Merchants' National Bank to its correspondent for collection, and was destroyed in a wreck on the Pennsylvania Limited on July 24, 1902, in transmission through the United States mails; and whereas the provisions of the act of February 16, 1885, amending section 3646, Revised Statutes of the United States, authorizing United States disbursing officers and agents to issue duplicates of lost checks, apply only to checks

drawn for $2,500 or less, it therefore instructs George A. Bartlett, disbursing clerk of the Treasury Department, to issue a duplicate of the original check, under such regulations in regard to its issue and payment as have been prescribed by the Secretary of the Treasury for the issue of duplicate checks under the provisions of section 3646, Revised Statutes of the United States.

Mr. SPOONER. I should like to ask the Senator from Colorado if the bill is in the usual form?

Mr. TELLER. It is in the usual form. It is one of those cases where the amount is so large that the Department can not pay it; and therefore an act of Congress is required.

Mr. SPOONER. In bills of this kind there is ordinarily a provision for the filing of a bond of indemnity.

Mr. TELLER. By this bill it is provided that the duplicate check to be issued shall be issued in accordance with the provisions of the statute relating to these matters.

Mr. SPOONER. That is provided for, then?

Mr. TELLER. It is.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

BILLS INTRODUCED.

Mr. CLAPP introduced a bill (S. 7228) to extend the time within which rebates may be allowed under the act entitled "An act to repeal war-revenue taxation, and for other purposes," approved April 12, 1902; which was read twice by its title, and referred to the Committee on Finance.

Mr. GAMBLE introduced a bill (S. 7229) to permit second homestead entries in certain cases, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. BURNHAM introduced a bill (S. 7230) granting a pension to Catharine M. Folsom; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 7231) granting a pension to Zachariah Orner; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. MARTIN introduced the following bills; which were severally read twice by their titles, and, with the accompanying papers, referred to the Committee on Claims:

A bill (S. 7232) for the relief of Robert H. Beverley; and

A bill (S. 7233) for the relief of the legal heirs of the late L. Claiborne Jones.

Mr. TELLER introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensons:

A bill (S. 7234) granting an increase of pension to Isaac N. Hughey;

A bill (S. 7235) granting an increase of pension to Emily M. J. Cooley; and

A bill (S. 7236) granting a pension to William C. Banks.

Mr. BLACKBURN introduced a bill (S. 7237) for the relief of Sidney R. Smith; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Claims.

Mr. CULLOM introduced a bill (S. 7238) granting a pension to John W. Hall; which was read twice by its title, and referred to the Committee on Pensions.

Mr. GALLINGER (by request) introduced a bill (7239) to exempt building associations in the District of Columbia from taxation; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. BEVERIDGE introduced the following bills; which were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (S. 7240) granting an increase of pension to Reuben Smalley (with the accompanying papers);

A bill (S. 7241) granting an increase of pension to Stephen W. Troyer; and

A bill (S. 7242) granting an increase of pension to John Hendricks.

Mr. FRYE introduced a bill (S. 7243) to increase the efficiency and safety of the mercantile marine of the United States, and to appoint a commission to recommend to the Congress the revision of all laws of the United States relating to the construction, installation, and inspection of marine boilers and their appurtenances, and to suggest the enactment of such additional legislation as will effect improvement in construction of marine boilers and maintain uniformity of inspection of marine boilers in all portions of the United States and insular possessions, and to further provide a reciprocal recognition of boiler-inspection certificates between the several maritime nations having marine-inspection laws; which was read twice by its title, and, with the accompanying paper, referred to the Committee on Commerce.

Mr. PLATT of Connecticut introduced a bill (S. 7244) granting an increase of pension to Mary Lucetta Arnold; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 7245) amending the act of June 19, 1888, providing for the erection of a public building at Bridgeport, Conn.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. COCKRELL introduced a bill (S. 7246) granting a pension to Caroline Weinheimer; which was read twice by its title.

Mr. COCKRELL. On January 14, 1901, a bill was approved granting a pension to Catharine Weinheimer, mother of the beneficiary named in the bill I have just introduced. I inclose a copy of that law, together with the Senate and House reports in that case, and a letter from myself to the honorable chairman of the Committee on Pensions. I move that the bill and the accompanying papers be referred to the Committee on Pensions.

The motion was agreed to.

Mr. MORGAN introduced a bill (S. 7247) for the relief of certain homestead settlers in the State of Alabama on lands which have been recovered, or which may hereafter be recovered, in the courts by the grantees of certain railroad companies in that State; which was read twice by its title, and referred to the Committee on Public Lands.

AMENDMENTS TO BILLS.

Mr. KEARNS submitted an amendment relating to the opening to location and entry of a portion of the Uncompahgre Indian Reservation in the State of Utah, intended to be proposed by him to the Indian appropriation bill; which was ordered to be printed, and, with the accompanying papers, referred to the Committee on Indian Affairs.

He also submitted an amendment authorizing the Secretary of the Interior to lease 20 acres of land of the tract now occupied by the Shebit Indians for the use of the Utah and Eastern Copper Company in the erection and operation of a smelter, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also submitted an amendment relating to the allotments of land to the Uinta and White River Ute Indians, limiting the grazing lands to be set aside for the use of the Uinta, White River Utes, and other Indians to lands south of the Strawberry River not greater than 250,000 acres in extent, and extending the time for opening to public entry the unallotted lands on said Uinta Indian Reservation to October 1, 1904, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. MARTIN submitted an amendment proposing to appropriate $35,000 for the extension of the present contract to collect and dispose of ashes and miscellaneous refuse from all business places in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying paper, referred to the Committee on the District of Columbia.

Mr. TELLER submitted an amendment proposing to appropriate $75,000 to pay to the executor or administrator of the estate of Eli Ayres the claim made by said Eli Ayres in his lifetime, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also submitted an amendment conferring jurisdiction upon the Court of Claims to hear and determine the claims of the Chippewa Indians of Lake Superior and the Mississippi for certain sums of money claimed by said Indians under the several treaties between said Indians and the United States dating from 1837 to 1855, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. GALLINGER submitted an amendment providing for the filling of vacancies which may occur in the board of directors of the Central Dispensary and Emergency Hospital in the District of Columbia by the Commissioners of the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

He also submitted an amendment proposing to repeal the provision in the act of June 30, 1883 (30 Stat., 538), fixing charges for the use of single or grounded wire telephones in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. DEPEW submitted an amendment proposing to appropriate $25,000 for the purchase of a site and the erection and equipment of isolation buildings in the District of Columbia, intended to be proposed by him to the District of Columbia appropriation bill; which was ordered to be printed, and, with the accompanying memorandum, referred to the Committee on the District of Columbia.

Mr. COCKRELL submitted an amendment intended to be proposed by him to the bill (S. 7142) for the allowance of certain claims reported by the Court of Claims, and for other purposes; which was referred to the Committee on Claims, and ordered to be printed.

Mr. QUARLES submitted an amendment proposing to appropriate $1,226.39 to pay Huff Jones, of Oconto, Wis., for money expended under an agreement with William T. Richardson, Indian agent at Green Bay, Wis., in November, 1872, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. CULLOM submitted an amendment proposing to appropriate $3,687.48 out of any money in the Treasury belonging to the Creek Nation of Indians to pay William M. Springer for professional services rendered to said nation, directing the payment of two Cherokee warrants for $1,500 each to William M. Springer for professional services rendered said Cherokee Nation, and proposing to appropriate $5,000 out of any money in the Treasury belonging to the Kiowa, Comanche, and Apache tribes of Indians in Oklahoma to pay William M. Springer for professional services rendered said Indians, intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. QUAY submitted an amendment authorizing the Secretary of the Interior to pay, out of any money in the Treasury belonging to the Cherokee Nation, four Cherokee warrants of $1,500 each, which were issued in 1900 to Lucien B. Bell and others, etc., intended to be proposed by him to the Indian appropriation bill; which was referred to the Committee on Indian Affairs, and ordered to be printed.

DISPOSITION OF ROUTINE BUSINESS.

Mr. HANSBROUGH submitted the following resolution; which was referred to the Committee on Rules:

Resolved, That Senators, of their own motion, at any time while the Senate is sitting, may deposit in a receptacle provided for that purpose at the Secretary's desk any petitions or memorials, reports from the Committee on Pensions, and pension bills, and all matters so deposited shall be disposed of in the same manner as if presented by Senators from their places on the floor of the Senate.

SALARIES OF POSTMASTERS IN VERMONT.

Mr. PROCTOR submitted the following resolution; which, with the accompanying paper, was referred to the Committee on Post-Offices and Post-Roads, and ordered printed:

Resolved by the Senate, That the Postmaster-General be, and hereby is, directed to report to the Senate the amounts of salaries of all postmasters in the State of Vermont for the terms of service specified whose names and terms of service appear on the schedule of such cases in said State, hereto attached, adjusted under the act of 1854, and the amount of the salary of each such postmaster adjusted and paid under the act of 1864, so that the difference between the salary paid and the amount of salary ordered paid by the act of 1883 shall appear in each case specified on the said schedule.

FRANCIS S. DAVIDSON.

Mr. HOAR submitted the following concurrent resolution; which was considered by unanimous consent, and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the President be requested to return to the Senate the bill (S. 1115) for the relief of Francis S. Davidson, late first lieutenant, Ninth United States Cavalry.

STATUES OF CHARLES CARROLL AND JOHN HANSON.

Mr. McCOMAS submitted the following concurrent resolution; which was referred to the Committee on Printing:

Resolved by the Senate (the House of Representatives concurring), That there be printed and bound of the proceedings in Congress upon the acceptance of the statues of Charles Carroll of Carrollton and John Hanson, presented by the State of Maryland, 16,500 copies, of which 5,000 shall be for the use of the Senate and 10,000 for the use of the House of Representatives, and the remaining 1,500 copies shall be for the use and distribution of the Senators and Representatives in Congress from the State of Maryland.

The Joint Committee on Printing is hereby authorized to have the copy prepared for the Public Printer, who shall procure suitable copper-process plates to be bound with these memorials.

COURTS-MARTIAL IN THE PHILIPPINES.

The PRESIDENT pro tempore. The Chair lays before the Senate a resolution coming over from a previous day. The resolution known as the Rawlins resolution is before the Senate.

Mr. DUBOIS. I ask that it may go over and remain on the table.

The PRESIDENT pro tempore. The Senator from Idaho asks that the resolution may retain its place on the table. The Chair hears no objection.

OFFICERS AND CREW OF STEAMER CHARLESTON.

Mr. HALE. I should like to call up the bill (H. R. 5756) for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippine Islands November 2, 1899. There will be no objection to it.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to reimburse the officers and crew of the U. S. S. *Charleston*, destroyed on a coral reef off Camiguin Island, in the Philippines, November 2, 1899, for losses incurred by them, respectively, in the destruction of that vessel.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CANCELLATION OF TAXES.

Mr. DUBOIS. I ask unanimous consent for the consideration of the bill (H. R. 16099) to cancel certain taxes assessed against the Kall tract.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

WILLIAM P. MARSHALL.

Mr. BEVERIDGE. I ask for the present consideration of the bill (H. R. 647) for the relief of William P. Marshall.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay $200 to William P. Marshall, late a private in Company H, One hundredth Pennsylvania Volunteer Infantry, being the amount due him for bounty.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

FANNY FARMER.

Mr. GALLINGER. I ask unanimous consent for the present consideration of the bill (S. 7166) granting an increase of pension to Fanny Farmer.

The Secretary read the bill; and by unanimous consent the Senate, as in Committee of the Whole, proceeded to its consideration.

The bill was reported from the Committee on Pensions with an amendment, in line 7, after the words "Company B," to insert "Second Regiment;" so as to make the bill read:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Fanny Farmer, widow of Augustus B. Farmer, late of Company B, Second Regiment, and captain Company A, Eighteenth Regiment New Hampshire Volunteer Infantry, and pay her a pension at the rate of $20 per month in lieu of that she is now receiving.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

CENTRAL ARIZONA RAILWAY.

Mr. BURTON. I desire unanimous consent to call up the bill (S. 6968) granting the Central Arizona Railway Company a right of way for railroad purposes through the San Francisco Mountains Forest Reserve, in the Territory of Arizona.

The PRESIDENT pro tempore. The bill has been twice read to the Senate. Is there objection to its consideration?

Mr. SPOONER. I should like to ask the Senator from Kansas if this is the bill which was up the other day?

Mr. BURTON. It is.

Mr. SPOONER. The one which the President vetoed?

Mr. BURTON. No, sir; it is not the bill which the President vetoed; but it is a new bill which I introduced to cover the objection the President had to the former measure.

Mr. SPOONER. I do not think we ought to take up a bill——

Mr. BURTON. If the Senator will permit me, I hold in my hand two communications—one from the Secretary of the Interior and the other from the Commissioner of the General Land Office—which I will ask to have read.

Mr. SPOONER. I think it would be better to let the Clerk read the communications rather than that the Senator should hold them in his hand.

Mr. BURTON. I send the communications to the desk to be read.

The PRESIDENT pro tempore. If there is no objection, the two communications will be read.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 24, 1903.

The CHAIRMAN OF THE COMMITTEE ON PUBLIC LANDS, *Senate.*

SIR: I have the honor to acknowledge the receipt, by reference from your committee, with a request for views thereon, of a copy of S. 6968, entitled "A bill granting the Central Arizona Railway Company a right of way for railroad purposes through the San Francisco Mountains Forest Reserve, in the Territory of Arizona."

In answer to the request I inclose a copy of the report on the bill by the Assistant Commissioner of the General Land Office, under date of the 23d instant.

He has stated therein that he sees no objection to the passage of the bill, as it appears to provide safeguards necessary for the protection and government of the reserve.

I approve of the report.

Very respectfully, E. A. HITCHCOCK, *Secretary.*

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 22, 1903.

The SECRETARY OF THE INTERIOR.

SIR: By the reference of the honorable Acting Secretary of the Interior, dated January 22, 1903, for early report in duplicate, with return of paper, I am in receipt of a copy of Senate bill 6968, granting the Central Arizona Railway Company a right of way for railroad purposes through the San Francisco Mountains Forest Reserve, in the Territory of Arizona, which bill was referred by the clerk of the Committee on Public Lands, under instructions of the committee, for the views of the Department thereon.

In reply I have the honor to report that as the bill appears to contain the safeguards which are necessary for the protection and the government of the forest reserve, I see no objection to its passage.

The copy of the bill referred, with a copy of this letter, is herewith inclosed.

Very respectfully,

W. A. RICHARDS,
Assistant Commissioner.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The bill was reported to the Senate without amendment. ordered to be engrossed for a third reading, read the third time, and passed.

COLVILLE INDIAN RESERVATION LANDS.

Mr. TURNER. I ask unanimous consent for the consideration of the bill (H. R. 159) providing for free homesteads on the public lands for actual and bona fide settlers in the north one-half of the Colville Indian Reservation, State of Washington, and reserving the public lands for that purpose. It is only fair that I should state in this connection that the Senator from Connecticut [Mr. PLATT] desires to make a statement concerning this bill, but I am assured that the statement will not be very long and that it will not delay the Senate.

The PRESIDENT pro tempore. The Senator from Washington asks for the present consideration of House bill 159. It has been read in full to the Senate and considered as in Committee of the Whole. Is there objection to its present consideration?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. PLATT of Connecticut. Mr. President, I merely wish to make a statement about what this bill is and what it involves. I will try to be brief, and to come within the five-minute rule.

There was a Colville Indian Reservation. It contained about 3,000,000 acres. It was made by an Executive order. I do not think there was any treaty with the Indians establishing this reservation. Several years ago an agreement was negotiated with the Indians by which half of the reservation, about fifteen hundred thousand acres, was to be opened to settlement, and the Indians were to be paid, under that agreement, I think, a million and a half dollars. If that is not the sum, the Senator will correct me.

That agreement came here and was not ratified by Congress, but Congress proceeded to direct the reservation to be opened, allotments to be made to the Indians, the balance to be sold at a specified price per acre, and the proceeds to be retained in the Treasury and applied for the use and benefit of the Indians. But there was a provision in the act that the fund should be subject at any time to disposition by Congress. It was not an absolutely permanent fund in the Treasury for the Indians.

This land has been allotted; that is, the allotments which were to be made to the Indians have been made. As it stands now the Government is obliged to sell the lands, and while the fund remains not otherwise disposed of in the Treasury to apply the use of it for the benefit of the Indians.

Now, it is proposed to open these lands to homestead settlement under the free-homes act. I know it is useless in the Senate to object to or oppose such a proposition; my objections have been too often overruled. But I wish to state to the Senate that I believe the result of it will be that the Colville Reservation Indians will come to Congress and ask for $1,500,000 and that Congress will give it to them. I want the Senate to pass the bill with a full understanding of what I believe will hereafter be the result.

Mr. STEWART. Will the Senator allow me?

Mr. PLATT of Connecticut. Certainly.

Mr. STEWART. Does the Senator believe that the Government will be under any obligations to give it to them? By the agreement itself the Government had the right to make other disposition of the fund. Would not this be another disposition, and would it not end the whole proceeding?

Mr. PLATT of Connecticut. The Senator knows perfectly well as to that, as he has recently been engaged in the settlement of an Indian claim where it is conceded that the Indians have no legal claim, but that they have certain equities, which are recognized, and they get the money. Now, this is what Congress agreed should be done:

SEC. 2. That the net proceeds arising from the sale and disposition of the lands to be so opened to entry and settlement shall be set apart in the Treasury of the United States for the time being, but subject to such future appropriation for public use as Congress may make, and that until so otherwise appropriated may be subject to expenditure by the Secretary of the Interior from time to time, in such amounts as he shall deem best, in the building of schoolhouses, the maintenance of schools for such Indians, for the payment of such part of the local taxation as may be properly applied to the lands allotted to such Indians, as he shall think fit so long as such allotted lands shall be held in trust and exempt from taxation, and in such other ways as he may deem proper for the promotion of education, civilization, and self-support among said Indians.

If the Government changes that law and opens the lands for settlement without selling them, I think it must be evident to everyone that the Indians will come forward and claim that they have an equitable right to this $1,500,000, and they will get it.

Mr. TURNER. Mr. President, I merely wish to say that the bill has been reported favorably by the Committee on Indian Affairs and that it has the approval of the Commissioner of Indian Affairs and the Secretary of the Interior. It applies the homestead provisions to the Colville Indian Reservation, which was opened to settlement in 1891 and which is already almost entirely settled, so far as the lands are arable.

As to every other Indian reservation that has been opened to settlement, no matter how much the cost to the Government, it has had the homestead law applied to it; and if Congress follows its well-defined policy, unless an exception is to be made as to the State of Washington, this bill ought to pass.

Since the decision of the Supreme Court in the Lone Wolf case there is no question that these Indians will have no claim for reclamation against the Government, unless it be by virtue of the language of the act which the Senator from Connecticut [Mr. PLATT] has read to the Senate. It will be seen by reference to the report of the Committee on Indian Affairs accompanying the law from which the Senator read that they will have no claim even under that, because that committee in its report to the Senate guard against any such implication. I hold in my hand the report made by Mr. Manderson, from the Committee on Indian Affairs, May 12, 1892, on the bill to ratify and confirm an agreement with the Indians residing on the Colville Reservation, in the State of Washington, which concludes thus:

The committee are also of the opinion that the Indians should be secured in their schoolhouse, sawmill, and gristmill, on Bonaparte Creek, unless they desire to select better locations for these institutions. While unwilling to make payment to the Indians for these lands not used for allotment purposes, the committee recognize a moral obligation on the part of the Government to aid them in their endeavors to attain a higher civilization and ultimate fitness for citizenship, and therefore advise that the proceeds arising from the sale of the parts of the reservation disposed of under the land laws of the United States be deposited in the Treasury to the credit of these Indians, subject, principal and interest, to expenditure in the discretion of the Secretary of the Interior for certain enumerated purposes in promotion of their welfare, but with the unexpended balance at all times subject to the disposition of Congress.

This is simply an act of justice to the State of Washington, and puts the settlers on this reservation on the same plane as settlers on all other lands bought from the Indians.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ADDITIONAL JUDGE, SOUTHERN DISTRICT OF NEW YORK.

Mr. DEPEW. I ask unanimous consent for the present consideration of the bill (H. R. 16724) to provide for an additional judge of the district court of the United States for the southern district of New York.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

REGULATION OF COMMERCE.

Mr. CLAPP. I ask unanimous consent for the present consideration of the bill (S. 7053) to further regulate commerce with foreign nations and among the States.

The PRESIDENT pro tempore. The Senator from Minnesota asks unanimous consent for the present consideration of the bill named by him, which will be read to the Senate for its information, subject to objection.

The Secretary proceeded to read the bill, but before concluding was interrupted by

The PRESIDENT pro tempore. The Chair lays before the Senate the Army appropriation bill, which was assigned for consideration at this hour.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 16567) making appropriation for the support of the Army for the fiscal year ending June 30, 1904.

Mr. PROCTOR. Mr. President, in view of the strong and very earnest remarks of the Senator from Maine [Mr. HALE] yesterday in regard to general legislation on an appropriation bill—although he did not press the point of order, he reserved it, and although there are conflicting opinions among good parliamentarians as to whether the amendment which was then under consideration is subject to the point of order or not—to save any question, I ask that section 2, on page 15, including the section

number, down to and including line 7, on page 17, being the staff amendment, be disagreed to.

The PRESIDENT pro tempore. The recollection of the Chair is that the amendment was adopted, but that the point of order was reserved, so that the Senator from Vermont now asks that the vote by which this amendment was adopted be reconsidered. Is there objection? The Chair hears none, and it is so ordered.

Now the Senator from Vermont asks unanimous consent to withdraw the amendment.

Mr. PROCTOR. Yes; I wish to withdraw the amendment.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the amendment is withdrawn.

Mr. PROCTOR. I now ask for a reconsideration of the vote by which the amendment, beginning in line 11, page 40, and ending on line 3, page 41, was adopted. I have a letter from the Surgeon-General regarding it. The amendment in the form in which I now propose to place it will make no material difference, but puts the language in proper form. I move, in line 10, on page 40, to strike out "five" and restore the original word "four," and then to strike out the whole of the following amendment and insert what I send to the desk.

The PRESIDENT pro tempore. The Senator from Vermont asks unanimous consent that the vote by which the amendment in line 10, on page 40, striking out "four" and inserting "five," and also the amendment adopted, beginning in line 10, on page 40, and going to line 3, on page 41, inclusive, be reconsidered. Is there objection? The Chair hears none, and that order is made.

The Senator from Vermont now asks that the amendment be withdrawn. The Chair hears no objection, and it is withdrawn.

Mr. PROCTOR. I now move to restore the word "four" in line 10, on page 40, so as to make the amount $450,000, as it originally stood.

The amendment was agreed to.

Mr. PROCTOR. I now ask for the adoption of the amendment which I send to the desk.

The PRESIDENT pro tempore. The amendment will be stated.

The SECRETARY. It is proposed to insert in lieu of the words stricken out the following:

MEDICAL EXPENSES, FURLOUGHED SOLDIERS, SPANISH WAR.

For the payment, or the reimbursement of payments made, of just bills and charges for the support, care, and treatment, including proper hospital charges, of sick officers and enlisted men of the Regular and Volunteer Armies of the United States while they were absent from duty on leave or on furlough, or otherwise, by direction or by permission of proper authority, on or after April 21, 1898, and up to and including April 11, 1899, in like manner as if the said officers and enlisted men had been on duty at the times when and places where the said bills and charges were incurred, the sum of $200,000 is hereby reappropriated from the balance remaining unexpended of the appropriation of $2,000,000, made by the act approved March 2, 1901; and shall remain and continue available for the purposes hereinbefore set forth for and during the term of two years from and after the date of the approval of this act.

The PRESIDENT pro tempore. The question is on the adoption of the amendment.

The amendment was agreed to.

Mr. FORAKER. On yesterday the Senate adopted an amendment on my motion, on page 14, after the word "Army," at the end of line 15. I want to amend that amendment which was then adopted. I wish to insert after the word "have," in the last line of the amendment, the words "while so serving."

The PRESIDENT pro tempore. The Senator from Ohio asks unanimous consent to reconsider the vote by which the amendment referred to by him was agreed to. The Chair hears no objection.

Mr. FORAKER. It was agreed to as in Committee of the Whole, and I suppose it can be amended in the Senate.

The PRESIDENT pro tempore. Yes; but if there be no objection, it can be amended now.

Mr. FORAKER. I desire to amend it now by inserting the words I have stated.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Ohio to the amendment yesterday adopted on his motion will be stated.

The SECRETARY. The amendment adopted yesterday, on motion of Mr. FORAKER, was, on page 14, after the word "Army," at the end of line 15, to insert:

Provided further, That the President be, and is hereby, authorized to appoint, by and with the advice and consent of the Senate, an officer of the Signal Corps as chief of the telegraph and cipher bureau of the Executive Office, who shall have the rank, pay, and allowances of a major.

It is now proposed after the word "have," in the last line, to insert "while so serving."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

EFFICIENCY OF THE ARMY.

Mr. BERRY. Mr. President, I rise to ask for the consideration at this time of the motion made by me to reconsider the vote by which the bill (H. R. 15449) to increase the efficiency of the Army was passed. The Senator from Vermont [Mr. PROCTOR] agrees that the vote shall be reconsidered with a view of disagreeing to the amendment which I will indicate if the motion shall be agreed to.

Mr. LODGE. I understand that consent is given simply to make the amendment to which the Senator refers, and that then the bill be immediately put upon its passage.

The PRESIDENT pro tempore. Then the motion to reconsider the vote by which the bill was passed would be withdrawn, and the bill would stand passed.

Mr. BERRY. The motion to reconsider will first have to be agreed to.

The PRESIDENT pro tempore. The Senator from Arkansas asks unanimous consent that the votes by which the amendments to this bill were ordered to be engrossed and the bill to be read the third time and passed be reconsidered. Is there objection? The Chair hears none, and it is so ordered. The bill is now before the Senate and open to amendment.

Mr. BERRY. Mr. President, I now ask unanimous consent that the amendment reported by the committee, to insert the words "or the Secretary of War" on page 3, section 4, line 4, be disagreed to.

The PRESIDENT pro tempore. The Senator from Arkansas asks unanimous consent that the amendment by which the words "or the Secretary of War" were inserted after the word "President," on page 3, section 4, line 4, be reconsidered, and that the amendment inserting those words be disagreed to. Is there objection? The Chair hears none, and it is so ordered.

Mr. PROCTOR. I move that section 6 of the bill be disagreed to, for the reason that precisely the same provision has just been passed in the Army appropriation bill.

Mr. PETTUS. I ask that that particular part of the bill be read.

The PRESIDENT pro tempore. The Senator from Vermont [Mr. PROCTOR] asks unanimous consent that the vote by which section 6 was agreed to be reconsidered, and that the amendment be rejected.

Mr. PROCTOR. I will withdraw the motion, Mr. President. The amendment will do no harm, I think, as it stands.

Mr. PETTUS. I am not making any objection. I merely want information, so as to know what I am called upon to vote for.

The PRESIDENT pro tempore. The motion is withdrawn.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

REGULATION OF COMMERCE.

Mr. CLAPP. I now ask that the reading of the bill (S. 7053) to further regulate commerce with foreign nations and among the States be resumed at the point where it was left off.

The PRESIDENT pro tempore. The Senator from Minnesota [Mr. CLAPP] asks unanimous consent that the bill which was laid aside at the hour of 1 o'clock, and which was partially read, may be further read for the information of the Senate. Is there objection? The Chair hears none, and the Secretary will resume the reading of the bill.

The Secretary resumed and concluded the reading of the bill.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. 7053) to further regulate commerce with foreign nations and among the States, which had been reported from the Committee on Interstate Commerce with amendments.

The first amendment was, on page 1, section 1, line 5, after the word "omitted," to strike out "by any lessee, trustee, receiver, officer, agent, or representative of such corporation" and insert "to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation;" in line 10, after the word "said," to strike out "act" and insert "acts or under this act;" in line 11, after the word "misdemeanor," to insert "committed;" on page 2, line 2, after the word "acts," to insert "or by this act;" and in line 3, before the word "except," to strike out "individuals" and insert "such persons;" so as to read:

That anything done or omitted to be done by a corporation common carrier, subject to the act to regulate commerce and the acts amendatory thereof which, if done or omitted to be done by any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, would constitute a misdemeanor under said acts or under this act shall be held to be a misdemeanor committed by such corporation, and upon conviction thereof it shall be subject to like penalties as are prescribed in

said acts or by this act with reference to such persons except as such penalties are herein changed.

The amendment was agreed to.

The next amendment was, in section 1, page 2, line 15, after the words "subject to," to strike out "the acts" and insert "said act;" in line 16, before the word "whereby," to insert "and the acts amendatory thereto;" in line 19, after the word "said," to strike out "acts" and insert "act;" and in line 19, after the word "commerce," to insert "and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced;" so as to read:

The willful failure upon the part of any carrier subject to said acts to file and publish the tariffs or rates and charges as required by said acts or strictly to observe such tariffs until changed according to law, shall be a misdemeanor, and upon conviction thereof the corporation offending shall be subject to a fine not less than $1,000 nor more than $20,000 for each offense; and it shall be unlawful for any person, persons, or corporation to offer, grant, or give or to solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce by any common carrier subject to said act to regulate commerce and the acts amendatory thereto whereby any such property shall by any device whatever be transported at a less rate than that named in the tariffs published and filed by such carrier, as is required by said act to regulate commerce and the acts amendatory thereto, or whereby any other advantage is given or discrimination is practiced.

The amendment was agreed to.

The next amendment was, in section 1, page 3, after line 8, to insert:

Every violation of this section shall be prosecuted in any court of the United States having jurisdiction of crimes within the district in which such violation was committed or through which the transportation may have been conducted; and whenever the offense is begun in one jurisdiction and completed in another it may be dealt with, inquired of, tried, determined, and punished in either jurisdiction in the same manner as if the offense had been actually and wholly committed therein.

In construing and enforcing the provisions of this section the act, omission, or failure of any officer, agent, or other person acting for or employed by any common carrier acting within the scope of his employment shall in every case be also deemed to be the act, omission, or failure of such carrier as well as that of the person. Whenever any carrier files with the Interstate Commerce Commission or publishes a particular rate under the provisions of the act to regulate commerce or acts amendatory thereto, or participates in any rates so filed or published, that rate as against such carrier, its officers or agents, in any prosecution begun under this act, shall be conclusively deemed to be the legal rate, and any departure from such rate, or any offer to depart therefrom, shall be deemed to be an offense under this section of this act.

The amendment was agreed to.

The next amendment was, in section 2, page 4, line 11, after the word "parties," to strike out "all persons," and in the same line, after the word "carrier," to insert "all persons;" so as to make the section read:

SEC. 2. That in any proceeding for the enforcement of the provisions of the statutes relating to interstate commerce, whether such proceedings be instituted before the Interstate Commerce Commission or be begun originally in any circuit court of the United States, it shall be lawful to include as parties, in addition to the carrier, all persons interested in or affected by the rate, regulation, or practice under consideration, and inquiries, investigations, orders, and decrees may be made with reference to and against such additional parties in the same manner, to the same extent, and subject to the same provisions as are or shall be authorized by law with respect to carriers.

The amendment was agreed to.

The next amendment was, in section 3, page 4, line 23, after the word "petition," to insert "alleging such facts;" in line 24, after the word "States," to insert "sitting in equity;" in line 25, after the word "parties," to strike out "alleging such practice" and insert:

And when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State.

In line 5, page 5, after the word "court," to strike out "to;" in the same line, after the word "summarily," to insert the word "to;" in line 6, after the word "circumstances," to insert:

Upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary.

In line 11, after the words "of the," to strike out "allegation, to" and insert "allegations of said petition said court shall;" in line 13, after the words "tariffs or," to insert "direct and;" in line 14, after the word "orders," to insert "writs;" in line 15, before the word "and," to insert "writs;" in line 16, after the word "carrier," to insert "subject to the right of appeal as now provided by law;" in line 18, after the word "States," to strike out "under the direction of the Attorney-General;" in line 7, page 6, after the word "transaction," to insert:

The claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying, but such testimony or evidence shall not be used against such persons or corporations on the trial of any criminal proceeding.

And beginning in line 12, page 6, to strike out:

But all carriers, corporations, or shippers whose books and papers are produced in evidence in said proceedings, and all persons required to testify shall have the same immunity from prosecution and punishment, and to the same extent and subject to the same provisions, as is provided for in an act approved February 11, 1893, entitled "An act in relation to testimony before the Interstate Commerce Commission, and in cases or proceedings under or connected with an act entitled 'An act to regulate commerce, approved February 4, 1887, and the amendments thereto.'"

So as to make the section read:

SEC. 3. That whenever the Interstate Commerce Commission shall have reasonable ground for belief that any common carrier is engaged in the carriage of passengers or freight traffic between given points at less than the published rates on file, or is committing any discriminations forbidden by law, it shall be authorized to present a petition alleging such facts to the circuit court of the United States sitting in equity having jurisdiction of the parties; and when the act complained of is alleged to have been committed or as being committed in part in more than one judicial district or State, it may be dealt with, inquired of, tried, and determined in either such judicial district or State, whereupon it shall be the duty of the court summarily to inquire into the circumstances, upon such notice and in such manner as the court shall direct and without the formal pleadings and proceedings applicable to ordinary suits in equity, and to make such other persons or corporations parties thereto as the court may deem necessary, and upon being satisfied of the truth of the allegations of said petition said court shall enforce an observance of the published tariffs or direct and require a discontinuance of such discrimination by proper orders, writs, and process, which said orders, writs, and process may be enforceable as well against the parties interested in the traffic as against the carrier, subject to the right of appeal as now provided by law. It shall be the duty of the several district attorneys of the United States to institute and prosecute such proceedings, and the proceedings provided for by this act shall not preclude the bringing of suit for the recovery of damages by any party injured, or any other action provided by said act approved February 4, 1887, entitled "An act to regulate commerce," and the acts amendatory thereof. And in proceedings under this act and the acts to regulate commerce the said courts shall have the power to compel the attendance of witnesses, both upon the part of the carrier and the shipper, who shall be required to answer on all subjects relating directly or indirectly to the matter in controversy, and to compel the production of all books and papers, both of the carrier and the shipper, which relate directly or indirectly to such transaction; the claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying, but such testimony or evidence shall not be used against such persons or corporations on the trial of any criminal proceeding.

Mr. CLAPP. On behalf of the committee I offer an amendment to strike out the words "of the parties" where they occur in line 25, on page 4.

The amendment to the amendment was agreed to.

Mr. CLAPP. Referring to page 6, we provided as to a person giving testimony that the testimony should not be used against him. Upon consultation of the later authorities we find that the immunity is not broad enough, and on behalf of the committee I offer an amendment to the amendment of the committee.

The PRESIDENT pro tempore. The amendment proposed by the Senator from Minnesota will be stated.

The SECRETARY. On page 6, line 7, after the word "transaction," it is proposed to strike out the remainder of the section and to insert in lieu thereof the following:

The claim that such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such person from testifying or such corporation producing its books and papers; but no person or corporation shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or it may testify or produce evidence, documentary or otherwise, in such proceeding.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

STATEHOOD BILL.

Mr. QUAY. Mr. President, I rise to renew my request that a day and an hour may be fixed at which a vote shall be taken on the bill known as the omnibus statehood bill, now the regular order. I ask the unanimous consent of the Senate that a vote be taken on the 19th day of February next, at 2 o'clock p. m., upon the bill and amendments pending and those which may then be offered.

The PRESIDENT pro tempore. The Senator from Pennsylvania asks unanimous consent that the vote on the pending bill, known as the omnibus bill, and all amendments then pending and all at that time offered, shall be taken at 2 o'clock on the afternoon of February 19. Is there objection?

Mr. BEVERIDGE. Mr. President, I regret that I can not accede to the Senator's request. I wish to say in this connection that the Senator certainly sees that such a consent is impossible. But four prepared arguments have been made upon our side of the question, but two upon the Senator's side, and there has been only a limited amount of regular ordinary running debate. A very much larger number of Senators upon our side of this matter than those who have spoken intend to speak, and I have no doubt a larger number on the Senator's side than those who have already spoken for it wish to defend the omnibus bill. The junior Senator from Wisconsin [Mr. QUARLES] is only in the midst of his able and brilliant argument. He will be followed by the senior Senator from New Jersey [Mr. KEAN] in a carefully prepared, exhaustive, and, I make bold to say, absolutely convincing speech. After him many other Senators desire to be heard. Therefore, the Senator from Pennsylvania will readily see that it is perfectly impossible to consent to the Senator's request.

The PRESIDENT pro tempore. The Senator from Indiana objects.

Mr. QUAY. Mr. President, I will ask, then, whether unanimous consent can be given to take the vote at the same hour on the 2d day of March next?

Mr. SPOONER. Will the Senator make it the 5th? [Laughter.]

Mr. QUAY. I will not.

The PRESIDENT pro tempore. The Senator from Pennsylvania asks unanimous consent that on the 2d day of March next, at 2 o'clock in the afternoon, without further debate, a vote may be taken on the omnibus bill, so called, and then pending amendments and amendments at that time offered. Is there objection?

Mr. BEVERIDGE. Mr. President, it is impossible to agree upon any specific date.

The PRESIDENT pro tempore. The Senator from Indiana objects.

Mr. QUAY. I should myself have objected to a vote on that occasion if the Senator from Indiana had not. As to his suggestion in reference to Senators upon the affirmative of the statehood issue, that there are a large number of them who desire to address the Senate and who have not yet done so, I will merely state that my request for unanimous consent is not at all offensive to those Senators.

Mr. BEVERIDGE. I did not say there were a large number of Senators on the affirmative side of the omnibus proposition who desired to speak. I said I entertained the hope that there would be a number more than those who have already so ably spoken for it who would desire to defend the bill. Of course if that is not well placed, it is not well placed.

Mr. GALLINGER. It is delusive.

The PRESIDENT pro tempore. The bill is not now before the Senate. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the following bills:

A bill (S. 475) to refer the claim of Joseph W. Parish to the Secretary of the Treasury for examination and payment of any balance found due;

A bill (S. 2450) to establish a fog bell and lens-lantern light on the southeastern end of Southampton Shoals, San Francisco Bay, California;

A bill (S. 5212) granting to the State of California 640 acres of land in lieu of section 16, of township 7 south, range 8 east, San Bernardino meridian, State of California, now occupied by the Toros band or village of Mission Indians; and

A bill (S. 5505) adjusting certain conflicts respecting State indemnity selections in lieu of school sections in abandoned military reservations.

The message also announced that the House had agreed to the amendments of the Senate to the following bills:

A bill (H. R. 9503) to authorize the Oklahoma and Western Railroad Company to construct and operate a railway through the Fort Sill Military Reservation, and for other purposes; and

A bill (H. R. 12240) granting to Nellie Ett Heen the south half of the northwest quarter and lot 4 of section 2, and lot 1 of section 3, in township 154 north, of range 101 west, in the State of North Dakota.

The message further announced that the House had passed with amendments the following bills in which it requested the concurrence of the Senate:

A bill (S. 4222) authorizing the appointment of John Russell Bartlett, a captain on the retired list of the Navy, as a rear-admiral on the retired list of the Navy; and

A bill (S. 4722) for the erection of a building for the use and accommodation of the Department of Agriculture.

The message also announced that the House had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. 7) authorizing the Secretary of War to cause to be erected monuments and markers on the battlefield of Gettysburg, Pa., to commemorate the valorous deeds of certain regiments and batteries of the United States Army;

A bill (H. R. 3100) providing for the conveyance of Widows Island, Me., to the State of Maine;

A bill (H. R. 7648) to authorize the construction of a bridge across the Missouri River and to establish it as a post-road;

A bill (H. R. 12952) authorizing the Secretary of the Interior to issue patent to the Rochford Cemetery Association to certain lands for cemetery purposes;

A bill (H. R. 13387) to amend an act entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and for other purposes;

A bill (H. R. 14512) to amend an act to add certain counties in Alabama to the northern district therein, and to divide the said northern district after the addition of said counties into two divisions, and to prescribe the time and places for holding courts therein, and for other purposes, approved May 2, 1884;

A bill (H. R. 15243) to authorize the President of the United States to appoint Kensey J. Hampton captain and quartermaster in the Army;

A bill (H. R. 15986) regulating the practice of medicine and surgery in the Indian Territory;

A bill (H. R. 16509) to authorize the Pearl and Leaf Rivers Railroad Company to bridge Pearl River in the State of Mississippi;

A bill (H. R. 16573) to authorize the construction of a bridge across St. Francis River at or near the town of St. Francis, Ark.;

A bill (H. R. 16602) to extend the time granted to the Muscle Shoals Power Company by an act approved March 3, 1899, within which to commence and complete the work authorized in the said act to be done by said company, and for other purposes;

A bill (H. R. 16646) to authorize the construction of a bridge across Bogue Chitto in the State of Louisiana;

A bill (H. R. 16731) permitting the town of Montrose, Colo., to enter 160 acres of land for reservoir and water purposes;

A bill (H. R. 16881) to authorize the court of county commissioners of Geneva County, Ala., to construct a bridge across the Choctawhatchee River in Geneva County, Ala.;

A bill (H. R. 16909) to amend an act entitled "An act authorizing the construction of a bridge across the Cumberland River at or near Carthage, Tenn.," approved March 2, 1901;

A bill (H. R. 16915) authorizing the commissioners' court of Escambia County, Ala., to construct a bridge across Conecuh River at or near a point known as McGowans Ferry, in said county and State;

A bill (H. R. 16975) to authorize the construction of a bridge across the Monongahela River in the State of Pennsylvania by the Eastern Railroad Company;

A bill (H. R. 17088) to create a new division of the eastern judicial district of Texas, and to provide for terms of court at Texarkana, Tex., and for a clerk to said court, and for other purposes; and

A joint resolution (H. J. Res. 8) tendering the thanks of Congress to Rear-Admiral Louis Kempff, United States Navy, for meritorious conduct at Taku, China.

STATEHOOD BILL.

Mr. QUAY. I move that the Senate proceed to the consideration of the omnibus statehood bill, so called.

The PRESIDENT pro tempore. The Senator from Pennsylvania moves that the Senate proceed to the consideration of the omnibus statehood bill, so called, which will be stated by its title.

The SECRETARY. A bill (H. R. 12543) to enable the people of Oklahoma, Arizona, and New Mexico to form constitutions and State governments and be admitted into the Union on an equal footing with the original States.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. QUARLES. Mr. President, when I yielded the floor yesterday I was contending for the right, and the corresponding duty, of independent thought and fearless investigation on the part of a Member or Senator, and that, while acting here under the sanction of an oath, considering the general welfare of the nation, we are not conclusively foreclosed by the phraseology of a particular resolution which some political convention may choose to adopt.

I wish to draw the distinction between a general declaration of principle by a political convention and a concrete application of it to a given measure. I do not wish to be understood, Mr. President, as calling in question the authority, the binding force, or the sanction of a general declaration of political policy by a national convention. It is entitled both here and everywhere else to the greatest respect.

But, Mr. President, suppose for the purposes of the argument we were to concede the conclusive effect of the platform declaration at Philadelphia, the interpretation put upon the language by the advocates of the pending measure is fallacious and unsound.

In 1896 the Republican convention declared in substance in favor of the admission of these Territories as soon as they were fit. In 1900 by a shorter resolution the Republican convention declared in favor of early admission. I apprehend, Mr. President, that under a fair construction the two resolutions are substantially the same, although phrased differently. It certainly will not be contended that the members of the convention of 1900 had in mind the admission of Territories that were not fit.

Both resolutions contemplated the fair exercise of legislative discretion. And when the matter is all summed up, we find that it is not a declaration in favor of this specific measure or of any specific measure, and after all amounts to no more than this: The Republican delegates there assembled pronounced it as their judgment that the interests of the Republican party would be promoted by the early admission of these Territories as soon as

Congress found that they were fit to be admitted. This is not a foundation upon which to rest this omnibus bill, calling for the admission of a bunch of Territories, but is a mere declaration of general policy to which I am willing to bow and which ought to be held in high respect by the members of that party.

Now, Mr. President, following the suggestion of the report of the committee——

Mr. MASON. The Senator from Wisconsin will not object if I call his attention at this point to the exact language of our platform?

The PRESIDING OFFICER (Mr. KEAN in the chair). Does the Senator from Wisconsin yield to the Senator from Illinois?

Mr. QUARLES. Certainly.

Mr. MASON. It reads:

We favor home rule for, and the early admission to statehood of, the Territories of New Mexico, Arizona, and Oklahoma.

Mr. SPOONER. There is something else there.

Mr. MASON. No.

Mr. SPOONER. There is something about home rule.

Mr. MASON. I read that. That is all there is on the subject, and it mentions the three Territories that are named in the omnibus bill.

Mr. QUARLES. I had that language in mind. My proposition, I will say to the Senator, is that "early" does not mean "immediate" or "hasty," nor does it call for premature consideration. The two platforms are exactly in harmony, and neither seeks to exclude legislative discretion.

IRRIGATION AND WATER SUPPLY.

It was suggested in the report that the first consideration perhaps in approaching this discussion was the interests of the Territories themselves, and in that connection I wish to submit an aspect of the question which has not been considered in this debate, which, it seems to me, from the standpoint of Arizona and New Mexico, is entitled to serious attention. If anything has been demonstrated by history and confirmed by this discussion it is that the great need of these two Territories is water. So important is water in view of the climatic conditions that it is water which now determines the measure of productiveness, and not the soil.

We have been informed that only about one-fourth of 1 per cent of the area of these Territories has yet been brought under irrigation. We are further informed that the facilities for irrigation have already outstripped the supply of water. There are aqueducts and ditches that are entirely dry because there is not water to carry on the work of irrigation. No man familiar with the situation can have a doubt that it is water that must develop that country, if it is ever developed, and that its supply is far more important to those communities than statehood can possibly be.

Mr. President, in all my reading I know of only one more importunate demand for water than is made by these two Territories, and that came from the arid region presided over by his Satanic Majesty, and was the appeal of the rich man to Father Abraham to send him a drop of water to cool his parched tongue.

Now, the next proposition in order is this: The water so imperatively needed can never come from the clouds. It can never be gathered up by private capital or individual energy. There is absolutely no recourse except to the strong arm of the Federal Government. Uncle Sam must come to the front with his millions and by an expensive system of dams and reservoirs lay the floods and torrents under contribution.

Now, the question recurs—and it is worthy the serious attention of every man who is to pass upon this matter, not as a politician, but as a statesman—Will statehood at this time advance or retard this great improvement? I grant that if statehood would promote irrigation the interests of those Territories would lie in that direction. If, on the other hand, it will retard progress in that direction, the real friends of the Territories ought to act accordingly.

Congress has listened to the appeal of these people and has year by year appropriated a vast sum of money for preliminary surveys, for ascertaining where reservoirs could be successfully constructed, for measuring streams, and doing all preliminary work so necessary to the introduction of a general scheme of irrigation. Congress has passed a bill whereby a large portion of the area of the Western country has been devoted to this purpose. We are told by the Senator from Idaho [Mr. DUBOIS] that already, under the operation of that act, some eight or nine million dollars have accumulated, and the expectation is that a very much larger sum will be added to this fund. Furthermore, Congress has given to the Territory of New Mexico 600,000 acres of the public domain to facilitate this general purpose.

Now, allow me to direct attention to the particular framework of this irrigation statute. It will be remembered that it passed this body without debate and without analysis. As the law stands to-day, this enormous fund, together with its accretion, may be taken into these two Territories and expended there in exploitation and development, and the only requirement of the act is an approximate evening up or distribution among the States after a period of ten years. Now, this legislation would seem to offer a great opportunity for these two Territories.

Mr. President, the greatest obstacle which the scheme of irrigation will have to meet is the limited power of the Federal Government and the plenary jurisdiction of the States. The officers of the Government to whom this work will be intrusted must speedily discover that there are serious impediments in the way of an intelligent administration of the measure within the limits of sovereign States.

Let me illustrate. Officers of the United States go to the State of Colorado, for instance, to impound flood waters. Some of you are familiar with her constitution. In her organic law she has laid down certain principles regarding the appropriation and distribution of water. Not only that, but she has built up a system of local statutes and a whole network of decisions, and around those are clustered usages and customs which have the force of law. We go now, for the purpose of administering this act, into the sovereign State of Colorado. Can we appropriate water from any one of her streams? Why, Mr. President, not at all. By her constitution she has asserted that the exclusive jurisdiction over those streams belongs to the State of Colorado. The question of navigation not being involved, her authority over those waterways is supreme. We can never divert the water from any stream in Colorado without an enabling act from her legislature.

Suppose we get legislative permission and the Government builds the necessary dams and reservoirs and we have succeeded in impounding the flood waters of one of the Colorado streams. Thus far we have proceeded by the permission of the State. Now, the minute we conduct from that Federal reservoir a stream of water into an aqueduct or a lateral or a ditch it falls immediately under the jurisdiction of the State of Colorado. Its laws attach to it; we must observe its usages and its customs, which are diametrically opposed to the common law. What then? The United States has absolutely lost all control over that stream of water as soon as it has left its reservoir.

The State of Colorado may suspend its jurisdiction over a stream to permit us to appropriate water; but it never can, and never will suspend its system of laws, or surrender its usages and customs regarding the appropriation and use of water. So that you have the United States Government there engaged in a great scheme involving enormous expenditures, which scheme the Federal Government is powerless to control.

Now, let me tell you what will happen—and the officers of the Government will be quick to discern this as soon as they begin to carry it out in actual detail. You have built great reservoirs. You have stored your flood water. You are proceeding to distribute it. You are obliged to carry your aqueduct over a private estate. The owner of that estate objects. You must either abandon your scheme or you must have recourse to condemnation. You institute your proceedings of condemnation, and then you meet a very serious question, which, briefly stated, is this: While engaged in distributing water over a titled area, such as you would have to do in a State like Colorado, is it a legitimate Federal public purpose? That question lies at the very foundation of your right to proceed. Can the United States condemn land to carry on the business of selling water? So growing out of the dual relation of the Federal and State governments and the different systems of laws, you will in the various States encounter no end of difficulties, perplexities, and complications.

Mr. HANSBROUGH. Will the Senator allow me?

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from North Dakota?

Mr. QUARLES. With pleasure.

Mr. HANSBROUGH. I ask the Senator if that is not the case with respect to all great questions like this? Do we not have complications and tribulations and troubles until the question is thoroughly sifted out in the courts of the country?

Mr. QUARLES. I do not know any place on this green earth where trouble does not come. I have never yet known any great project to be adopted where there were no complications. I am about to speak in a moment of the condition in these Territories as compared with States and to suggest that this scheme can be carried out with far less difficulty, with fewer complications, in a Territory than in a State.

In this connection I may say now that when the Government goes into its own territory it has to reckon with no other sovereign. It also has an influence in framing the laws controlling the exercise of the right of eminent domain. Congress has the power to supervise the enactment of Territorial laws, and presumably the statutes in those Territories, under the circumstances, would be framed to facilitate this scheme. Every facility within the lawmaking power would be afforded.

The streams of a Territory are under the exclusive control of Congress. You are not compelled to appeal to the sovereign will

of a State. There the Government finds large masses of unappropriated land, and I would suggest to the Senator from North Dakota that that is a most important circumstance as bearing upon the constitutional question and the Federal authority to engage in this enterprise at all.

If the unappropriated area is sufficiently large, so that the Government as a primary purpose is seeking to improve its own land, that might be held and would undoubtedly be held by the courts to be a legitimate Federal purpose. But in a State which has been settled, where the lands have been appropriated, this Government in distributing water for sale among settlers perhaps would stand upon the same footing as any other great proprietor who was distributing water for hire. But in a Territory where it has great areas of unappropriated land the question presents entirely a different legal aspect. The Government goes in and takes possession of a stream. It impounds the flood waters and carries its aqueduct over its own territory for the purpose of improving its own land. Such a state of facts would simplify the question.

Mr. President, the people of these two Territories have become excited over the question of statehood, and nothing is more natural. We can all understand it, especially we who have lived in a new Territory. But I submit it to the candid judgment of all who hear me, whether in view of these propositions the people of New Mexico and Arizona will not be entitled, almost of right, to have the larger portion of this fund expended within their own limits to the exclusion of States, and to have all the experimentation done there, and is not that of greater benefit, of greater import to those Territories than to acquire the status of statehood?

As I look upon it, Mr. President, statehood at the present time would be an impediment, an obstruction, and therefore a calamity to these Territories. If they should unite their energies under this beneficent act of Congress to secure the expenditure of that sum of money within their own area reclaiming lands, furnishing homes and farms for thousands of settlers, they need not then trouble themselves about statehood. Population will come, wealth will come, and statehood will follow as certainly as night follows day.

Mr. President, if I understand the attitude of Arizona, if I comprehend the arguments which have been made here in her interest, statehood is desired as a stimulus. Statehood is looked upon as desirable because it will attract large numbers of people, because it will attract capital; but in my humble judgment the irrigation scheme will bring to them all of these desirable elements much more quickly and much more surely than the acquisition of statehood.

Mr. DUBOIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. QUARLES. With pleasure.

Mr. DUBOIS. I was paying close attention to the Senator from Wisconsin, but I may have misunderstood him, notwithstanding. Was the Senator arguing that when the Federal Government went into the State of Colorado it would there be confronted with the Colorado laws and it could not interfere with them, because Colorado was a sovereign State; but that in going into these proposed States of New Mexico and Arizona, they being under the control of the Government, it would not be restricted as in the State of Colorado?

Mr. QUARLES. Yes, sir.

Mr. DUBOIS. I would ask, then, if the Congress of the United States has not authority to waive any rights which it might have in those two Territories. Is the Congress of the United States able by legislation to waive any rights which it might have in the Territories of New Mexico and Arizona?

Mr. QUARLES. I did not catch the Senator's point. I do not understand the waiver of which the Senator speaks.

Mr. DUBOIS. I understood the Senator to agree to the proposition that when the Federal Government goes to the State of Colorado to build reservoirs, canals, dams, etc., it can not contravene the laws of the State of Colorado——

Mr. QUARLES. Yes.

Mr. DUBOIS. That it is a sovereign State. Now, then, can it contravene, for instance, the laws of New Mexico and Arizona?

Mr. QUARLES. Undoubtedly. Congress has supervisory control over all Territorial legislation.

Mr. DUBOIS. Very well. Then I come to my question again: Has Congress the power to waive its right to set aside any statutes of the Territories of Arizona and New Mexico?

Mr. QUARLES. Congress has no power to divest itself of any legislative function. The Constitution imposes that upon Congress, and it would be beyond the power of Congress to divest itself of that discretion.

Mr. DUBOIS. As I said the other day, I am not a lawyer, and therefore I can not follow these refinements; but Congress has done that very thing in the irrigation act which I have here.

Mr. QUARLES. I will say to the distinguished Senator that if Congress has assumed to do such a thing the act was utterly nugatory and void.

Mr. DUBOIS. If the Senator will pardon me, I will read the act of Congress. This is section 8 of the national irrigation act passed by Congress. It says:

> That nothing in this act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof.

Mr. QUARLES. There are two branches of that proposition, of which I will speak separately, if the Senator will permit me. The first declaration, that it is not intended to impinge upon the legislation of the State, is, of course, a truism. Congress could not do that. The proposition that it was not intended to change any of the laws of a Territory does not involve any renouncement of the power of Congress in that regard. It simply indicates that there is no present purpose in that particular act to do that thing.

Further, I will explain to my distinguished friend from Idaho, Congress has not, as he will see by reflection, undertaken to withdraw or renounce any of the control that it has over Territorial legislation. It amounts to a statement that for the time being it is satisfied with the legislative conditions in those Territories, and it goes no further.

Mr. DUBOIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Idaho?

Mr. QUARLES. Certainly.

Mr. DUBOIS. Of course I feel my disadvantage in arguing a point which is a legal proposition with the distinguished Senator and able lawyer from Wisconsin, but this word is used here, which is a very strong word, it seems to me:

> That nothing in this act shall be construed as affecting or intended to affect or to in any way interfere——

Mr. SPOONER. In that act.

Mr. DUBOIS. No—

> with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation.

It is not to interfere with the laws of any Territory covering this whole irrigation problem.

Mr. SPOONER. Does the Senator take that as a contract binding Congress never to interfere with existing laws on that subject in any Territory, or does he construe it as my colleague does? My colleague needs no help from any source in the discussion of such a question or any other, but I insist that he correctly construes it as a declaration by Congress that it is not intended by that act to interfere with any laws existing in the Territories.

Mr. DUBOIS. It is that Congress shall not interfere in respect to irrigation laws; that it shall place the Territories on precisely the same basis as States in regard to its laws on the subject of irrigation.

Mr. SPOONER. Congress could not place the Territories on the same basis as the States, beyond its power to change it.

Mr. DUBOIS. I will say to the Senator from Wisconsin that I was one of the subcommittee to draw the present act, and there were some able lawyers on the committee. It was a committee of 17, composed of representatives from each of the arid and semiarid States and Territories. One question which we discussed, and the hardest question for us to decide, was whether the States and the Territories should have the control all the time or whether Congress in passing this national irrigation act should come in and assume control, affecting the distribution and use and conservation of waters. We decided that the laws of the Territories and States should govern. That was the intention of those men, and, as I said, there were a great many lawyers on the committee.

Mr. SPOONER. But, if the Senator will permit me, did this committee decide that where a Territory had been admitted into the Union with a constitution which gave the new State control over waters originating in the State Congress had the power to abrogate that constitution and assume that control on behalf of the General Government? My colleague said that the declaration in this act that the act should not be construed to interfere with the rights of the States or the laws of the State was a truism. Is it not so?

Mr. DUBOIS. Yes.

Mr. SPOONER. Is it anything more than that?

Mr. DUBOIS. No; it is a truism.

Mr. SPOONER. It is a truism?

Mr. DUBOIS. Yes.

Mr. SPOONER. In other words, it is an assertion by Congress that this act is not intended to do——

Mr. DUBOIS. Something which it could not do?
Mr. SPOONER. What the act could not do?
Mr. DUBOIS. Certainly.
Mr. SPOONER. But is it not true that as to the Territories an entirely different rule prevails?
Mr. DUBOIS. I should think not.
Mr. SPOONER. Have we not the power to enact all the legislation for the Territories? Have we not the power to overrule and abrogate every act passed by the legislature of a Territory?
Mr. DUBOIS. Undoubtedly.
Mr. SPOONER. Then, does that mean anything more than what was stated by my colleague, that that act was not intended to abrogate the existing laws of the Territories on the subject of water?
Mr. DUBOIS. Plainly not, in my judgment.
Mr. SPOONER. Very well; that is all my colleague asserted.
Mr. DUBOIS. Oh, no. The Territory could pass a law, for instance, and Congress could refuse to sanction that law and destroy it; that Congress could do. If, however, they had not passed a law and Congress says we will allow you to pass this law, they would have authority to pass it.
Mr. SPOONER. But that——
Mr. DUBOIS. Congress now gives up the right——
Mr. SPOONER. No; Mr. President——
Mr. DUBOIS. In this act to interfere with the laws of the Territories, knowing that it could not do it.
Mr. SPOONER. No; the act says that it shall not be construed to interfere with any law passed by the Territorial legislature; in other words, that it is not intended to repeal any Territorial legislation.
Mr. DUBOIS. No; that it shall not interfere with those laws.
Mr. SPOONER. It does not say that.
Mr. DUBOIS. I-n-t-e-r-f-e-r-e.
Mr. SPOONER. But that is that this act shall not interfere with them. Does the Senator not see the distinction between a statement by Congress that a particular act was not intended to interfere with the Territorial legislation and the proposition that Congress has abdicated the constitutional function and will never exercise the power to abrogate any Territorial act which it has passed?
Mr. DUBOIS. Now let me reverse it. Do you suppose that Congress, after having passed that act, would interfere and change the laws of these Territories in regard to the use and distribution of water? Is it not a guaranty that it will not?
Mr. SPOONER. Mr. President, that begs the question. The Senator says Congress has guaranteed that it would not; in other words, that Congress has abdicated its power.
Mr. DUBOIS. Yes.
Mr. SPOONER. By contract?
Mr. DUBOIS. Yes; by law.
Mr. SPOONER. Not to change any act of any Territory that regulated the use of water, I say, as my colleague says, that Congress has done no such thing. I say that all Congress has done, and all Congress can do, so far as the Territory is concerned, is to say that the particular act in which you find that language is not intended to abrogate any law existing in the Territory regulating the use of water. The Territory is the United States in a sense. It belongs to the United States, and the Congress of the United States, representing the Government legislatively, does not enter into a contract with itself that it will not change laws which itself through a delegated authority has enacted.
Mr. DUBOIS. Now, Mr. President——
Mr. SPOONER. In other words, I insist, just as my colleague does, that Congress is as free to-day as it was before that act was passed to enact laws for a Territory regulating the use of water, if in the judgment of Congress the public interest requires it. Does the Senator mean to contend here that this irrigation act is a contract between Congress and a Territory, and that Congress never will interfere, no matter what the public interest may demand, with some act passed by a Territorial legislature regulating the use of water?
Mr. DUBOIS. I intend to say this: I agree with the Senator from Wisconsin that this language is a truism so far as the States are concerned and that Congress intended to put the Territories on the same footing with the States. It says in express terms that it will not interfere with the laws of the Territories in regard to the use and distribution of water. I would agree that Congress could reverse itself and interfere in a Territory; but it says here plainly that it will not interfere, and I assume that Congress will maintain that position. What I am objecting to is that under the language of that act the Senator from Wisconsin argues that Congress will interfere.
Mr. SPOONER. No; I did not argue that.
Mr. DUBOIS. He was making a distinction in regard to the use, distribution, storage, etc., of waters in the States and in the Territories.
Mr. SPOONER. I did not argue, nor did my colleague——
Mr. DUBOIS. I meant your colleague.
Mr. SPOONER. My colleague did not argue that this was an assertion by Congress that it could not interfere, or that it could be construed by any possibility as an agreement that it would not interfere. It is only a declaration by Congress that that act is not intended to interfere with the legislation of any Territory regulating the use of water. But when the Senator goes beyond that and contends that it is a contract on the part of Congress that the legislation of a Territory regulating the use of water is beyond its reach until statehood, I enter my protest.
I beg my colleague's pardon. I intended to give him a rest; that is all.
Mr. DUBOIS. I beg the pardon of both Senators, but I do not propose, even by such adroit and able lawyers as they are, to be diverted. The Senator's colleague was arguing in regard to this very act, that the money set apart would be in this fund, and he was proceeding to discuss the effect of the irrigation act, and in discussing the act he puts the Territories in a different class from that occupied by the States.
Mr. SPOONER. No, Mr. President, he did no so far as this act was concerned, as I understood him, and I listened to him carefully. He said that this act Congress did not intend, and it so declared, to interfere with any legislation in the Territories regulating the use of water. He said that in this act Congress did not intend to interfere, as it could not, with any act of a State regulating the use of water.
Mr. DUBOIS. Yes, I will agree to that.
Mr. SPOONER. Did my colleague intimate that Congress by this act had lost the constitutional power to regulate for itself the use of water in the Territories hereafter? I did not so understand him.
Mr. DUBOIS. No, nor did I say it. You must have misunderstood me.
Mr. SPOONER. Well, I may have done so, but I think not.
Mr. DUBOIS. I stated that he was arguing the effect of this act——
Mr. SPOONER. Then we agree.
Mr. DUBOIS. And he illustrated it by referring to Colorado, in the first place, and then went to the Territories and proceeded to show that Congress could do in a Territory what it could not do in a State. Is not that a fair statement of it?
Mr. SPOONER. That is true.
Mr. DUBOIS. I say that he was arguing that this act itself provides that there shall be no distinction so far as the use, distribution, and conservation of water and all things appertaining to irrigation is concerned between a State and a Territory.
Mr. QUARLES. Mr. President, let me illustrate what I mean, so that my friend from Idaho [Mr. DUBOIS] will have no doubt whatever about my position. I think the distinguished Senator has misunderstood me as he evidently did the distinguished lawyers who were trying to enlighten his conscience at the time that bill was before his committee.
Congress, by that enactment, said that it recognized—as indeed it must—the enactments of the several States on this subject. Right there I wish to say that recognition is not of a single system or a single code of regulations, but, if the Senator will look into it, he will find one law in California, another law in Colorado, and still another system in Idaho. The law governing the appropriation of water has been inflected by the particular uses that were desired to be made of water in the particular localities. For instance, where water was used for mining purposes, one system grew up and usages ripened into law. So the recognition Congress was bound to make in that irrigation act included all those varied and diverse systems, and the Government would have to reckon with each one of those independent sovereigns and their absolute laws and customs whenever it entered their territory. That is the force of the first part of the concession made in the irrigation bill.
The second proposition amounts, as my distinguished colleague says, to nothing more than this: That for the time being by this particular bill Congress does not choose to change any of the laws in any of the Territories now governing the use and appropriation of water, but the power to do so still remains unimpaired by any provision of that bill.
Let me illustrate: As soon as the attention of the Federal officers who are to administer that irrigation act is called to these fundamental principles I believe they will see the importance of trying this great experiment where they will not be fettered by State jurisdiction and State laws. If it should be found necessary to condemn real estate in the Territory of Arizona to carry out this great project the Government might find it necessary to change the laws of that Territory regulating the exercise of the right of eminent domain in order to facilitate that work. That power the Government would have, and it would undoubtedly be exercised in the interest of the scheme of irrigation.

If the Senator will look into the law, he will see how great a part the right of eminent domain will play in the extension of any irrigation system. That advantage we would have in the Territory. That is one of the reasons why I say that if the people of Arizona and New Mexico, instead of devoting their energies to acquiring statehood, had combined to secure the appropriation and use of this money within their Territories in the first instance, and had appealed to the almost unlimited discretion of the officers under the irrigation law they would, in my humble judgment, have promoted the interests of their section much more than by holding statehood conventions and sending Delegates here to try to hasten admission into the Union.

SPECULATION AND EXPLOITATION.

Mr. President, the second proposition that I wish to advert to briefly also concerns the Territories of Arizona and New Mexico. It is that the people of those two Territories have not yet reached a stage of development where they can safely dispense with the control and restraint of the Federal power. The evidence that has been presented by the committee shows conclusively the efforts that have been made in both Territories to escape or resist the control imposed by the Harrison Act. We find already that in certain parts of both Territories the rate of taxation has risen to the enormous level of 5 and 6 per cent. Such a rate of taxation is, of course, ruinous. These Territories are not exceptional in this regard. It seems to be an irresistible impulse on the part of new Commonwealths to run in debt; it is as irresistible and inevitable as the teething process with children. It is easily understood.

In new communities there exists a local public spirit, which is of great value in promoting development, but it can easily be aroused and fanned into a flame of excitement; so, I say, there is nothing exceptional in the situation of these Territories. But, Mr. President, the era of exploitation is certain to come to each of these communities as soon as statehood is granted. The promoters, the sharpers, will go to the new States, and their numbers will be like the locusts that invaded Egypt. There is one crop to be garnered in a new State which is not dependent on irrigation, and that is a crop of State and municipal bonds. If I mistake not, there is evidence that some astute husbandmen are prepared to gather this crop, which will fructify under the genial influence of statehood even in the arid region.

The Good Book has it that "Wheresoever the carcass is, there will the eagles be gathered together," and, if I mistake not, if we should admit these two Territories as States there would be savage work done with beaks and talons. An era would be ushered in there such as we have seen in other States.

Take my own State as an illustration, or the State of Minnesota, whose able representative [Mr. NELSON] addressed himself to this question. Those States were settled by a strong, hardy race of pioneers. They were an intelligent people, many of them coming from New England and New York. They were well versed in the arts of government; and yet as soon as they took on the mantle of statehood there was opened up just such an era of exploitation. I have lived to see the sad effect of it upon those communities. I have seen cities and counties bond themselves for large sums of money for the building of railroads, and I have later seen the grass growing in the streets of those cities; I have seen them reduced to the humiliation of repudiation, carrying on long, vexatious lawsuits, many municipalities unable to have any local officers for fear of the service of a writ from the United States court with a view to enforcing those obligations. I have seen them, with their officers-elect, meeting only for a single occasion to pass the budget, and then all resigning, so that there would be nobody upon whom process could be served. In that way the whole progress of those municipalities was retarded for many long years.

The distinguished Senator from Minnesota spoke of the experience of his State in this regard. History repeats itself, and what happened in the States to which I have referred will happen in these proposed States. It is natural and easy for promoters to go into new communities and represent the great necessity of railroads, the great agency of building up infant communities, and the insidious suggestion is made at public meetings and elsewhere and through the press that all the State or the municipality has to do is to lend its credit to the scheme, that eventually it will be self-sustaining, will pay every dollar on demand, and will relieve the municipalities. But those suggestions are delusive, and in almost every instance the State or municipality issuing the bonds has been obliged in the end to pay the debt.

We have had here evidence from Arizona as to the issuance of Pima County bonds. I do not purpose to follow that subject at length, but it is only one of the features of what has been going on which indicates the restlessness of those communities, and their desire to promote their own growth by these adventitious aids. What would happen there now if we should take off the restraint of the Federal Government, if we should withdraw the protection of the Harrison Act, which prevents any of those municipalities from encumbering themselves to a greater extent than 4 per cent of the assessed valuation?

Their new liberty might be exercised in plunging themselves in debt to aid a multitude of schemes for internal improvement which would be presented in an alluring shape as calculated to build up the waste places and bring lasting glory to the new State.

Mr. BEVERIDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. QUARLES. Certainly.

Mr. BEVERIDGE. I call the Senator's attention to the fact that the first witness who appeared before the subcommittee in Oklahoma made an argument against statehood even for Oklahoma, a very highly developed community, upon the ground that they were very prosperous and contented there now, and that railroads were being built with the money of investors who were investing their money as a legitimate matter, whereas, if they were admitted as a State and the 4 per cent limitation were removed, there would instantly be competition among the towns, as there had been in the past, and that the people would be burdened, as they have in other States, with an enormous amount of unnecessary debt; that if they remained as they were for a short time they would have all the railroads that they needed without any expense to the people. I saw a clipping in the Washington Post from some railroad journal, which I intended to bring down here, which went on to say that the Rock Island Railroad Company had determined to expend something like $20,000,000 in the extension of its lines in Oklahoma and the Indian Territory. If the 4 per cent limitation were removed, this witness argues, the people would build those roads themselves instead of their being built by subsidies. Certainly that is true of certain enterprises elsewhere in other Territories.

Mr. QUARLES. I am very thankful, Mr. President, for the suggestion of the Senator from Indiana. As he well intimates, if we continue those communities under the protecting care of the Federal Government, the railroads that ought to be built will be built by private capital. On the other hand, if we confer statehood now upon those communities, it requires no prophet to predict what will happen there. Railroads will be built that never ought to be built, and they will be built upon the strength of State and municipal bonds that never ought to be issued. In a short time, as the Senator says, if they remain in their present condition, they will have built those roads which are justified by the condition of the country, and will not engage in fatuous speculation such as all the recently admitted States have been concerned in.

Mr. President, we are advised by the evidence that a system of schools—a comprehensive system of education, I may say—has been established in these Territories. It seems to me far wiser that these schools should be permitted to do their perfect work, allow that people to become better capable of taking care of themselves, of administering the affairs of government, and acquiring greater resisting power in order that they may not be involved in these speculations when the invasion of exploitation shall come.

THE ORDINANCE OF 1787.

I wish to say a few words regarding the capacity of these two Territories for admission at this time. This omnibus bill suggests an illustration that a chain is no stronger than its weakest link, and an omnibus bill is no better than its worst provision. Therefore if it has been demonstrated here that either of these Territories is unfit for any reason for present admission, that should be an end of this entire measure. If Arizona has not sufficient population, or a population of such character as to entitle her to statehood, that is the end of the whole proposition, and we may dismiss it at once.

Much has been said regarding the question of population. It would be difficult, looking over the history of this country, and especially reviewing the acts admitting the several States, to arrive at any rule that ought to obtain in this case. The distinguished Senator from Ohio [Mr. FORAKER], who seems to be almost the only Senator in favor of this measure who has skill or tact enough to attempt to defend it on the floor, made a long review of the various acts whereby States had been admitted to the Union. He discussed at great length the ordinance of 1787.

All the States that were admitted pursuant to the provisions of that ordinance, or pursuant to legislation extending that ordinance, stand in a class by themselves. They were admitted by reason of a distinct, definite compact, which was made by the early Congress with the people of the territory, and I think it is greatly to the credit of this nation that Congress saw fit to carry out that pledge to the very letter, although the ordinance itself was probably repealed by the Constitution.

In the first place, the ordinance of 1787 has no direct bearing upon the measure under consideration. These Territories are not included within its provisions. Then it remains simply to determine whether there is any argument by way of analogy to

be made from the circumstances attending the admission of those States under that ordinance. I undertake to say that there is no analogy from which any deduction can be made at this time which is at all persuasive.

"Times change, and we change with them," and one has only to think for a moment of the situation in which this country was when the ordinance of 1787 was adopted to realize how futile it is to apply the doctrine of analogy in this case.

At that time, as suggested by the distinguished Senator from Massachusetts [Mr. HOAR], steam was a sleeping giant; it had never turned a wheel or moved a paddle; electricity was only manifested by the lightning flash, which was looked upon as an emblem of the wrath of God. Beyond that narrow fringe of settlement along the Atlantic coast there stretched a trackless wilderness inhabited by hostile tribes. The States were few and feeble; they had been decimated and impoverished by a great war; they were torn asunder by internal discord; they were distressed by jealousies; they were smarting under the taunts of the monarchical governments of Europe. It was a life and death struggle then to establish in this new hemisphere the foundations of a free government. There was nothing strong about the Confederation at that time except the patriotic spirit of the old heroes who were concerned in administering that Government. It has been called a rope of sand. The necessity at that time for new States to make this feeble Government more strong and stable was such that every inducement had to be extended to the hardy pioneers to go into the forest and reclaim it and bring it into civilization, so that new States could be created to give greater strength and fiber to the Confederation.

The rule of the ordinance of 1787 was continued far beyond the emergencies out of which it arose; but we are dealing with the condition which prompted the adoption of that ordinance; and when we come to compare it with the present condition of this Union see how the analogy fades out. To-day we have 45 great States. They are wealthy and powerful and independent; they have no occasion to fear any power on this earth; their flag is honored and respected wherever it flies. Is there any emergency at this time which dictates as a matter of prudence the bringing in of additional States into this Union? Manifestly not. No such suggestion has been made in this debate, nor will be, that the Union, the Government, has any reason, prudential or otherwise, for bringing these Territories into the galaxy of States at this time. It is simply a question of doing justice to those communities that are demanding admission; nothing more.

Mr. BEVERIDGE. I listened with interest to what the Senator had to say about the ordinance of 1787, and I thought perhaps he was going to pursue the subject further. If not, I wish to call his attention to the fact that those Senators who have thus far spoken on this side with respect to that ordinance do not contend, of course, that the ordinance should apply now. We merely cite that as we cite the rule of the unit of representation or any other rule to show that a Territory, while it is not contended that it should have any specific number, should have a fair proportion in comparison with the rest of the country. That was the force of our suggestion and the extent to which it went.

Mr. QUARLES. I appreciate and understand the purposes for which the committee dealt with the ordinance, but I inferred from the long and brilliant argument made by the Senator from Ohio [Mr. FORAKER] that he went further than the committee; first assuming to criticise the interpretation of the ordinance made by the committee, and that he intended his argument to proceed a step further and to throw light upon the present contention by reason of the fact that States have so recently been admitted having only 60,000 inhabitants, maintaining that right under the ordinance of 1787, as it has been extended.

Mr. BEVERIDGE. That is correct.

Mr. QUARLES. And it has been extended further than has been suggested in this argument. If it were necessary, I could call attention to a statute that has been overlooked in this debate, which extended the doctrines and provisions of the ordinance of 1787 over the Dakotas. But it is quite immaterial to refer to that, because the Dakotas had an abundant population to admit them upon any principle without the invocation of any special rule.

The Senator from Ohio [Mr. FORAKER] proceeded further and reviewed the admission of certain other States which were admitted during the war period or shortly afterwards, and he admitted himself, as of course everyone knows, that there was then another emergency pressing upon this nation, an emergency to have a certain number of States in order to effectuate what was known as the war policy or the policy of reconstruction.

I say, Mr. President, there is no analogy whatever to be drawn from the fact of the admission of that group of States, because there, as in the case of the early States, the acts of admission were dictated by an imperative emergency, and it was thought that the emergency was such as to warrant the admission of those States even though the population was below the number which ordinarily would be required to equip a Territory for statehood.

Mr. President, the learned Senator from Ohio proceeds to build up what he calls a rule, and I wish to address myself to it for a moment. If I understand his argument, it was something like this: After the rule of the ordinance of 1787 had passed away there was, by some common consent, a new rule, namely, that the population which was equal to the ratio of representation should be the test of admission. If I were arguing from his premises I should evolve a rule exactly opposite to that arrived at by the Senator from Ohio.

It will be noted that the Ordinance of 1787 fixed a maximum number. Discretion operated below that maximum of 60,000. The more recent authorities that he produces would seem to fix the minimum as the ratio of representation, and discretion may be exercised above the minimum and not below it. That is to say, that a Territory to be eligible for consideration must have at least the number of people that would admit them to representation in the lower House, and the zone of discretion is reached when you get above that number.

But he has formulated a convenient rule—a rule exactly adapted to the emergency of his argument. It makes the number of the ratio of representation a maximum which entitles to representation, and, to use his language, "New Mexico is entitled to representation," while Arizona, with less than the requisite population, is entitled to the tender consideration and discretion of Congress. No such rule is recognized by any law, ordinance, or treaty. It is supposed to have sprung out of a consensus of opinion, or unwritten tradition, if you please. The current of opinion, as I gather it from these sources, is entirely different from that stated by the Senator from Ohio. It requires a Territory to show that she has people enough to entitle her to representation as a condition precedent. So far as this question is one of representation, that is a logical position.

But, Mr. President, the question we are discussing here is not confined to or limited by the rule of representation. That is but one element of it. There are other considerations besides the numerical strength of the population. When a Territory has made itself eligible by showing that it has enough people to entitle it to representation, then begin the inquiries: first, whether the people are sufficiently advanced in education and in civilization to entitle them to stand upon an equal footing with the other States; secondly, whether the territory occupied by them has resources sufficient for all time to maintain that population. For instance, a mining craze in Arizona might have brought into that Territory for the time being a population sufficient to equal the ratio of representation. But on examination we might find that the mines were liable to fail; that there were no other resources to maintain so large a population, and in a short time a general exodus might be expected. The discretion of Congress would therefore be invoked to determine whether, under all the circumstances, notwithstanding the presence of a sufficient number of people, it would be wise to admit the Territory as a State. No, Mr. President, there is no rule which makes the number of people the sole or conclusive test.

TREATY OF GUADALUPE-HIDALGO.

The Senator argues that there is some moral obligation resting upon us in this case growing out of the treaty of Guadalupe-Hidalgo. I can not agree with the distinguished Senator in that respect, although I make the assertion with diffidence, owing to his great legal ability. The first proposition I would suggest is this: The Constitution confers upon Congress, without limitation, the discretion to admit new States. Can that discretion be bargained away by the treaty-making power? Can the treaty-making power enter into a compact with Mexico to deprive us of that constitutional discretion? Mr. President, it seems to me that the statement of the proposition is its own refutation. That discretion was not impaired one iota by that convention with Mexico. Unlike the Ordinance of 1787, that treaty was a compact with another sovereign and not with the people. Mexico could enforce, perhaps, against us, that treaty, but we have made no compact with the people who inhabit that Territory as we had with the people of the Northwest Territory.

Let us examine the treaty of Guadalupe-Hidalgo. It does not, by its terms, assume to impair our legislative discretion. The Senator speaks often of the parenthetical clause wherein occurs an express recognition of our discretion. Suppose that parenthetical clause were stricken out, would it change the reading or the meaning of that treaty? It would then stand merely stipulating that those Territories are to be admitted into the Union "at the proper time." Strike out the parenthesis, and who would determine when the proper time had arrived?

Mr. BEVERIDGE. Or even strike out "the proper time.'

Mr. QUARLES. Or, as the Senator from Indiana says, go further and strike out the clause regarding the proper time. To

what power would the question be referred? Manifestly to Congress. But, Mr. President, it is idle to discuss that question, because the parenthetical clause was added, the words "proper time" were employed, referring distinctly to the discretion of Congress.

But the Senator makes an argument on the meaning of the other phrase—"the principles of the Constitution"—and, if I understood his argument, it was that "the principles of the Constitution" indicated the presence in a Territory of a number of people equal to the ratio of representation. I can not agree with the Senator there. The principles of the Constitution referred to in that treaty were two: First, that there should be found in that Territory a republican form of government, and secondly, that the admission should be conformable to the discretion of Congress, with whom alone it is lodged by the Constitution. Those are the only two references in the Constitution to this subject, and presumably the only ones to which reference was made by the diplomats who framed that treaty.

So we come back again to the same proposition, that the integrity of legislative discretion on this question has never been impeached or impaired. Statehood is here to-day as an original question. It stands here to-day free from any emergency or exigency that should constrain our action. We stand here bound to exercise our discretion wisely in view of all the facts and circumstances that are brought to our attention.

Mr. BEVERIDGE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Indiana?

Mr. QUARLES. Certainly.

Mr. BEVERIDGE. I dislike very much to interrupt the Senator, because his succession of points is very clear, but with his permission I will say that I was particularly struck by what the Senator said about the fact that the provisions of the Constitution giving Congress the power, the discretion, to say when a Territory shall be admitted could neither be added to nor subtracted from by the provision of any treaty or the omission to put any provision in any treaty; and that even if the words "proper time" and the parenthetical clause "to be judged of by Congress" had been left out of the treaty of Guadalupe Hidalgo, the same power would be there and the same limitation would be there, because the Constitution would be read into the treaty, of course.

Mr. QUARLES. Yes.

Mr. BEVERIDGE. Now, then, that being true, and all lawyers and everybody else will admit it, is it not a significant fact, a fact which requires our particular attention, why it was put in by the drafters of that treaty? They knew all those things, nevertheless they inserted those words, which from a legal point of view were unnecessary. There must have been some reason for that, and that is emphasized by the further fact that that language has never occurred in any other treaty adopted before or since. It is only with reference to New Mexico and Arizona and the territory we acquired from Mexico that there were inserted the words "at the proper time, to be judged of by Congress." The fact that they did that, from a legal view unnecessary, and did a thing which never has been done in any treaty before or since, suggests that there must have been some very conspicuous reason before those who drew that convention, and that reason no doubt exists to-day.

Mr. QUARLES. I am very thankful to my friend for having made that suggestion, and I do not feel at all at a loss to understand the motive which prompted the inclusion of that language. There could have been no other, except overcautiousness on the part of the people who were negotiating that treaty, to make sure that the discretion of Congress should be unimpaired whenever the question of admitting those Territories arose; and it was wisely done, for now there can be no question as to the proper interpretation of the treaty, and no room within its four corners for such a rule as the Senator from Ohio laid down.

CAPACITY FOR STATEHOOD.

Mr. President, there is one proposition touching the fitness of these Territories which has not been specifically referred to in this debate, to which I wish to make reference for a moment. With great pains the statistics have been tabulated by the several Senators who have spoken upon this question. We know exactly the rate of illiteracy in these Territories. We know the number of foreign born. We know all about the resources of agriculture and grazing and mining, and I shall not detain the Senate a moment to go into any of those questions. But I do beg to refer to one argument, based upon the showing of the census, which has not been adverted to. The ratio of illiteracy in both Territories is startling. No right-minded man can contemplate with any satisfaction the bringing in of a population where the ratio of illiteracy is so high.

But there is another thing which is even more suggestive than the tables of illiteracy, and that is that in New Mexico among the native-born population the percentage of illiteracy is 51. I want every Senator to think for a moment what that means. Among the native-born population, those who have been born under our institutions and under our flag, the ratio of illiteracy is 51 per cent. That is a most alarming suggestion.

We know what our institutions have done for peoples of other races; we know what an inspiration they have been to the sturdy immigrants who have come to our shores, and still in one of our own Territories that is asking to come in as a sovereign State on an equal footing we find that alarming state of facts. "By their fruits ye shall know them" is a maxim as true to-day as it was when first uttered. And that civilization, existing there for half a century under our institutions, produces 51 per cent of illiteracy!

Sir, in the State from which I come we have a large proportion of foreign population—not only the Germans, but the Scandinavians, the Poles, and an admixture of other foreign elements. But we have noticed all through that the second generation, coming under the beneficent influence of our school system, are not only Americans, but the most intense Americans we have. Take the Germans, for instance. They speak our language; they sympathize with our ideas; they adopt our methods; they are imbued with our enthusiasm, and they are the most stalwart Americans you can find. It is much the same with all those other nationalities; and while the number of foreign born has been very large, such a thing as an interpreter in a jury room has never been heard of. They become the best of citizens. They are patriotic, public spirited, thrifty, and in every respect have become assimilated with our population.

I have not heard any reference made in this debate to a singular circumstance, and that is that the subcommittee had before it a number of justices of the peace in New Mexico, many of whom were native born; and in one instance an interpreter was required for a justice of the peace who appeared before the committee. Although he had been produced right there, he could not speak the language of the country. Now, presumably, that man was above the level of the intelligence of the community in which he lived, because he had been selected to judge and arbitrate the disputes of his neighbors.

The committee had before it another justice of the peace who was also native born. They asked him what is the Constitution of the United States. He said he had never read it except only a fragment or a clause, which he had seen printed in Spanish. The question was still pressed, and he said it was something out of which had come the laws of New Mexico.

Mr. BEVERIDGE. Will the Senator from Wisconsin permit me?

Mr. QUARLES. Certainly.

Mr. BEVERIDGE. Another justice of the peace who was asked that question said he had not read it at all. The Senator referred to the fact that for one justice of the peace an interpreter was required. I think, perhaps, that was the case in more than one instance; certainly in most of the instances there was broken speech. The interpreter was not recorded as being used where it was at all possible to understand the witness. Further, in every instance, possibly with one exception and I believe in every instance, the testimony shows that the dockets of the justices of the peace were written in Spanish and the processes issued from their offices in Spanish.

I wish to call the Senator's attention to another fact, because I see he has passed the point, and that is with respect to his statement concerning the illiteracy of the native-born element, because it astonished me, and I have given some attention to this subject. Do I understand the Senator to say that the illiteracy of the native-born element is 51 per cent?

Mr. QUARLES. Yes, sir; it is so shown by the census.

Mr. BEVERIDGE. The significance of that fact, serious as it is, does not, I think, appear fully upon its face. Illiteracy is determined by the following test: Can you read or write any language? And 51 per cent, as the Senator states—and it astonishes me; it is an alarming state—of the native-born element can not read or write the English language or any other language. If the test were applied to the reading and writing of English, how much higher does the Senator think it would be?

Mr. QUARLES. I have no idea.

Mr. BEVERIDGE. But necessarily it would be very much higher.

Mr. QUARLES. This statement would excite great surprise in the mind of any person not familiar with the environments under which those people live. The subcommittee, I venture to say, visited the cities. Now, the urban population in these Territories is quite different from the rustic population. The people of the cities are, of course, all the time brought in contact with the business element, with the life of commerce, and those people become bright and energetic. But anyone who has visited that Territory, and especially if he has had the opportunity of traveling in old Mexico, will have no difficulty in understanding the situation. It is natural and it is logical.

Now, great wonder is expressed that forty years elapsed before

it occurred to these people in New Mexico that a system of schools was necessary. That would be a monstrous proposition as applied to almost any other of our new communities. Take the case of Wisconsin, for instance. The old frontiersmen, who were hewing down the trees and building their log cabins, made it their business in the first instance to discuss the question of education, and the first graded school of the West was established in the little town where I was born while it was yet a wilderness. But those people down there in New Mexico, as I said, lived for forty years under American institutions before the necessity of a school system became apparent. Now, why is that? It is perfectly natural to one who understands the situation.

A plaza either in old Mexico or in New Mexico is a menace to civilization. It brings isolation. A plaza surrounded by adobe buildings will shelter a dozen or twenty families, as the case may be. There they live in complete isolation. They reproduce the original type. They think the same thoughts and they sing the same songs as their fathers had for centuries before. They follow the goats through the chaparral and sagebrush during the day. They return to the plaza at night and indulge in the same games and pastimes that diverted their ancestors before them.

Now, Mr. President, while civilization is infectious, those little communities are immune. Civilization never reaches them. There they have lived generation after generation as a pastoral people. Their wants are few and simple. The climate is mild. They do not have to hustle to keep warm. They have fruit and they can provide themselves with the necessaries of life without great exertion. There they have lived, I say, without feeling a throb of commerce or civilization. The need of education does not appeal to them. Until the plaza is invaded you will have no progress among those people.

In the cities of New Mexico, we are advised that their system of schools is admirable. We see the enrollment of pupils, and it is large. We see that improvement is going on. But when you go back to the plaza you will find nothing of the kind. How it may be now, since this impulse of education has aroused to some extent the lethargies of the people, I do not know.

When Cortez approached the palace of the Montezumas to deliver the message of his august sovereign, Spain was a great power. Her infantry was renowned throughout the world. Her armadas struck terror to the nations of Europe. She was a dominating influence in European politics. The wealth of her colonies was poured into her lap. She was enamored of luxury. And what did she do? She drove the Moors and the Moriscos from her borders, and they were her artisans. The sound of the harumer was discordant. Industry was something vulgar, not to be encouraged or tolerated. So the artisans, the working people, were made exiles by Spain, and from that time dates her decadence. We find that her colonies one after another have revolted and established their independence. It became the mission of this young nation to intervene and relax her nerveless hand from the last of her western possessions.

As illustrative of this tendency toward decadence we find the Cortes of Spain, the legislative assembly, appealing to Philip the Second to forbid the use of coaches, because, forsooth, the Spanish people had gotten along so well without them for so many years. Now, poor old Spain, reduced to a second-rate power, has retired within her own boundaries to reflect upon the uncertainties of human greatness. Wherever her children are, wherever you find the Spanish blood, you find that this racial infirmity has been inherited; and in the plaza in New Mexico, as in old Mexico, the watchwords of that laggard civilization are "mañana" and "poco tiempo."

Now, Mr. President, let us wait. Let us wait until education has permeated those rustic communities. Let us pause until we have aroused in their breasts the American initiative. Let us wait until they are capable of sympathizing with our civilization, willing to adopt our methods, our habits, our language, before we admit them as a sovereign State.

A WILDERNESS IF IRRIGATION FAILS.

Mr. President, there is another reason that I want to urge upon the Senate why these two Territories ought not to be admitted, and it is a reason which has not been offered by anybody, and I esteem it worthy of attention. What will be the future of Arizona and New Mexico if irrigation fails? That region will relapse into a wilderness.

I wish to call the attention of the Senate to the legal situation which now exists with reference to irrigation. Let me say at the outset that it seems to me the United States Government is undertaking to carry out two antagonistic policies. Its officers are working at cross-purposes. In Congress we are trying to mature and carry out a great scheme of irrigation. We have passed a bill with this end in view. But at the same time the officers of the United States Government in the courts are seeking to establish a principle which is a menace to any Federal system of irrigation.

It is well known that New Mexico must depend upon the Rio Grande and the Pecos for its irrigation. It is well known that both of those streams are interstate streams. It is known that a large quantity of the water in those two streams has already been appropriated, so that the Rio Grande River at times, at El Paso, runs dry.

Now, the Rio Grande is not only an interstate stream, but it is an international stream. It passes on, as everyone knows, into the Republic of Mexico. So the question raised by the law officers of the United States Government is one of very great importance as to the future of this country—whether this appropriation of water is to be permitted if it threatens the navigability of the Rio Grande River. I think it is not generally known that the Supreme Court of the United States, in considering this question, has given an intimation which at least is startling in its bearing upon the future of these two Territories.

There was a dam projected on the Rio Grande River for irrigation purposes, and the officers of the United States Government brought suit to enjoin the building of that dam on the theory that navigation would be affected by the diversion of water for irrigation. That dam was intended to store the flood waters of the river in New Mexico. A preliminary injunction was issued. The lower court dismissed the bill on the ground that the Rio Grande River was not navigable in New Mexico, and therefore the bill had no equity. The case was carried to the Supreme Court of the United States, and there the whole question was considered.

I will pause only long enough to say to those who may not have investigated the subject that the common-law rule requires that a river passing my land, for instance, shall be permitted to run as by nature it would run. The upper proprietor may use the water as it passes him, but he must return it into the stream, so that the volume of the river shall not be substantially diminished when it passes my land.

Now, that common-law rule has been entirely abrogated in the States of Colorado, California, and in most of the Western States. It has given place to another rule, which gives priority of right to priority of appropriation. The doctrine of riparian rights under the common law has been abrogated.

Congress has recognized the local abrogation of the common-law rule in many statutes and in a number of decisions, and it was supposed by the profession generally, I think, that that recognition by Congress and its courts was all sufficient to do away with the common-law rule on that subject, as applied to that whole region.

Now, you see at once that if the common-law rule were to be applied to the Rio Grande and the Pecos it would simply destroy irrigation, because when they take water out of a river in that arid country the evaporation is something enormous, I think about 30 per cent, if I remember. I may be in error.

Mr. TELLER. Mr. President, I should like——

Mr. HOAR. The Senator is making a very interesting statement, and I wish to ask him if he understands that the doctrine known as the "common-law doctrine" applies to irrigation?

Mr. QUARLES. Yes, sir; and I shall show that the Supreme Court does apply it. I will hear the Senator from Colorado.

Mr. TELLER. I should like to say to the Senator that he has overestimated the amount of evaporation. It is not to exceed from 12½ to 15 per cent.

Mr. QUARLES. I am thankful for the suggestion. I do not pretend to be an expert upon this subject.

Now, I wish to call the attention of the Senate to the case to which I have referred. It is found in 178 United States and is the case of United States *v.* Rio Grande Irrigation Company.

I will read briefly from page 704. The court said:

> Notwithstanding the unquestioned rule of the common law in reference to the right of a lower riparian proprietor to insist upon the continuous flow of the stream as it was, and although there has been in all the Western States an adoption or recognition of the common law, it was early developed in their history that the mining industry in certain States, the reclamation of arid lands in others, compelled a departure from the common-law rule, and justified an appropriation of flowing waters both for mining purposes and for the reclamation of arid lands, and there has come to be recognized in those States, by custom and by State legislation, a different rule—a rule which permits under certain circumstances, the appropriation of the waters of a flowing stream for other than domestic purposes. So far as those rules have only a local significance, and affect only questions between citizens of the State, nothing is presented which calls for any consideration by the Federal courts.

Then they speak of an act passed by Congress which recognized by express terms that doctrine of the prior appropriation of water, the prior proprietor having the better right. The court says:

> The effect of this statute was to recognize, so far as the United States are concerned, the validity of the local customs, laws, and decisions of courts in respect to the appropriation of water.

Then they go on and speak of the desert-land act, which I need not read. It is familiar to most Senators. Then they speak of several other acts, and on page 706 the court says:

> Obviously by these acts, so far as they extended, Congress recognized and assented to the appropriation of water in contravention of the common-law

rule as to continuous flow. To infer therefrom that Congress intended to release its control over the navigable streams of the country and to grant in aid of mining industries and the reclamation of arid lands the right to appropriate the waters on the sources of navigable streams to such an extent as to destroy their navigability, is to carry those statutes beyond what their fair import permits. This legislation must be interpreted in the light of existing facts—that all through this mining region in the West were streams, not navigable, whose waters could safely be appropriated for mining and agricultural industries, without serious interference with the navigability of the rivers into which those waters flow. And in reference to all these cases of purely local interest the obvious purpose of Congress was to give its assent, so far as the public lands were concerned, to any system, although in contravention to the common-law rule, which permitted appropriation of those waters for legitimate industries. To hold that Congress, by these acts, meant to confer upon any State the right to appropriate all the waters of the tributary streams which unite into a navigable water course, and so destroy the navigability of that water course in derogation of the interests of all the people of the United States, is a construction which can not be tolerated.

I will not detain the Senate to read this opinion further, but the court goes on and holds that the lower court was in error in dismissing the bill on the ground that the Rio Grande was not navigable in New Mexico. They hold that, if the appropriation of the water in New Mexico affected the navigability of the river in another State, then it makes no difference whether the river was navigable in New Mexico or not.

This case was again before the court in 184 United States, but it is not particularly significant, except that the language employed by the court would seem to indicate that this is regarded as a most important and dangerous question. This case is still pending, and testimony is being taken to determine to what extent the appropriation of the water of the Rio Grande River for the purposes of reclamation is interfering with the navigability of the stream lower down. Any Senator who will read that opinion will, I think, see that there is very grave danger that they may eventually apply the common-law rule with all that that implies.

But that is not all, Mr. President. The case I have just called attention to proceeded upon the doctrine of navigability. The same proposition has been raised in another way in a case that is reported in 185 United States, the case of Kansas *v.* Colorado. There the question of navigability was not raised. There the question presented by the bill was whether Colorado could appropriate the water of the Arkansas River while it was running within the Colorado boundaries, and thus deprive the people of Kansas, through which State the river runs, from the advantageous use of water for domestic and other purposes as well as for irrigation, presenting the sole, simple question as to the right of one State to appropriate the water of an interstate stream, leaving out the question of navigability.

There was a demurrer interposed to that bill; and every lawyer knows that a demurrer admits all the facts that are well pleaded, and the court might have proceeded to a decree determining all these questions upon that demurrer.

The Supreme Court, however, regarding the question as so difficult and so important, declined to pass upon the demurrer, and sent the case back to have the evidence taken (and that court takes original jurisdiction in that case), so that that court might know what the very facts were, as to the extent to which the Colorado people had been appropriating that water, to what extent it influenced the underflow, which is a feature of that water course in Kansas, and all the other facts, considering it a question of such great importance as to whether the common-law rule should be applied that the court has thus asked to have the demurrer withdrawn and all the facts presented before that court.

Now, without wearying the Senate further I wish to ask here, in view of the inevitable result that must flow from the application of the common-law doctrine to those two streams, ought we to admit that Territory with that menace hanging over it? Ought we not to wait until we know what the law is, affecting, as it does, the resources and almost the very life of those two Territories? If we admit them, our act is irrevocable; it can not be reviewed or recalled. Is there a Senator here who, in view of that litigation, in view of that great danger imperiling, as it does, the industries of those two Territories, would wish to say that they should be admitted as sovereign States before the court has determined this great fundamental question?

Mr. TELLER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Colorado?

Mr. QUARLES. With pleasure.

Mr. TELLER. It seems to me the Senator is assuming what is not a fact, that the Rio Grande is within the legal term a navigable stream, and that he is putting up a bugbear that will never rise to trouble us or anyone else. That stream is not navigable, has never been navigable to any commercial extent, and never will be.

Mr. QUARLES. Does the Senator mean that the Rio Grande is not navigable at any point?

Mr. TELLER. I mean that for a few months in the year the lower end of the stream is navigable, during which time little one-horse steamboats occasionally run upon it; but there is practically no commerce on that river, and there never has been.

Mr. QUARLES. Mr. President, I can only say that if I am making a bugbear of this question, I am imitating the Supreme Court of the United States, which seems to be very much disturbed by that same bugbear.

Mr. TELLER. I should like to say that the Supreme Court had some evidence, at which I am astonished, to the effect that the river was navigable not only at its mouth, but in New Mexico. It never has been so. There never has been in the history of the river a boat which has passed El Paso. There never has been a steamship or a sailboat on the river above that point.

Mr. QUARLES. Mr. President, I can not follow the distinguished Senator from Colorado into that matter of fact, concerning which I am entirely ignorant.

Mr. SPOONER. I will ask my colleague if he assents to the definition of navigability suggested by the Senator from Colorado, that that is only a navigable stream within the meaning of the law which can float a 1-horse, a 2-horse, or a 10-horse steamboat, or whether, if a stream is navigable for any of the useful purposes of commerce, such even as the floating of logs to market, that does not constitute navigability within the American rule?

Mr. TELLER. I should like to reply to that if the other Senator from Wisconsin will allow me just one minute.

Mr. QUARLES. Certainly.

Mr. TELLER. It can not possibly be assumed by the Senator from Wisconsin or anybody else——

Mr. SPOONER. I do not assume anything——

Mr. TELLER. That the Congress of the United States is going to declare a river a navigable stream if you can run posts or logs down it, and thus deprive a half million people at the head of the stream of the right to live there at all. We are treating this matter as a practical thing. The Senator says there will be danger some day that the people at the head of that stream and along the borders of the stream will be deprived of water for domestic use in agriculture—that they will be without it in order that somebody may run a saw log down the river.

Mr. SPOONER. I assume nothing except this——

Mr. TELLER. I think you do.

Mr. SPOONER. I think I did not. I only stated a proposition of law. The common-law rule of navigability is the ebb and flow of the tide. The American rule of navigability is not the ebb and flow of the tide, but it is the susceptibility of a stream for some of the useful purposes of commerce, and that does not involve steamboat navigation; but whether a stream is conceded to be navigable under the American rule, independent of the act of Congress declaring it navigable or otherwise, is a question of law and of water rights.

Mr. TELLER. Certainly; I understand that.

Mr. SPOONER. I have not assumed anything contrary to that.

Mr. TELLER. I think the Senator assumes that a stream might be navigable because posts and logs could be run down it. I do not concede that to be a fact. There may be somewhere in Wisconsin decisions holding that streams are navigable where posts and logs are run down them.

Mr. SPOONER. When the Senator says that he indicates forgetfulness of the scope of the decisions on that subject.

Mr. TELLER. I have never looked to see what the decisions were.

Mr. SPOONER. I was not referring to any Wisconsin decision.

Mr. TELLER. I know the rule as to navigable streams where the Government of the United States interferes with and takes charge of them is that they are considered navigable when boats can be run upon them. I do not believe that the Government has ever taken charge of any other streams.

Mr. QUARLES. Mr. President——

Mr. SPOONER. I surrender to my colleague for the time.

Mr. QUARLES. Mr. President, in the case of Kansas *v.* Colorado the question of navigability is entirely left out of view by the court, and still the question raised was held by the court to be so important that they sent the case back to take proof. Here is what the court says; let us see if there is any bugbear in this:

> We think proof should be made as to whether Colorado is herself actually threatening to wholly exhaust the flow of the Arkansas River in Kansas; whether what is described in the bill as the "underflow" is a subterranean stream flowing in a known and defined channel, and not merely water percolating through the strata below; whether certain persons, firms, and corporations in Colorado must be made parties hereto; what lands in Kansas are actually situated on the banks of the river, and what, either in Colorado or Kansas, are absolutely dependent on water therefrom; the extent of the watershed or the drainage area of the Arkansas River; the possibilities of the maintenance of a sustained flow through the control of flood waters; in short, the circumstances, a variation in which might induce the court to either grant, modify, or deny the relief sought or any part thereof.

If I understand that language, it means that if the proof is strong enough, the court proposes to deal with the case according to the principles of common law, but it hesitates until the very

facts can be presented in the record, not with reference to navigability, but with reference to the right of one State to appropriate and use all the waters in the stream, and thereby deprive the adjoining State of the use of the same for domestic and other purposes. The distinguished Senator from Colorado [Mr. TELLER] will not, I think, say there is any bugbear there. It seems to me to be a menace, and it seems to go right to the very root of this whole question,

Mr. President, is any great interest to be sacrificed, is any right to be infringed. if we wait until we know what the highest court in the land shall say upon this subject? It seems to me, sir, that we are constrained by every principle of prudence to wait until we know what the court shall hold, not only as to the possibility of future irrigation, but as to the permanence of the system so far as it has already been established.

Mr. BURTON. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Kansas?

Mr. QUARLES. Certainly.

Mr. BURTON. I was not in the Chamber when the Senator spoke about the streams in New Mexico and Arizona. To what streams did the Senator refer that might be affected by this legislation?

Mr. QUARLES. The Rio Grande and the Pecos, both interstate streams.

Mr. BURTON. Is the Senator disturbed about any opinion of the Supreme Court affecting the waters of those streams so as to affect the development of either Arizona or New Mexico?

Mr. QUARLES. Mr. President——

Mr. BURTON. If the Senator will allow me another word—surely there can be no reason for urging that as an argument against this bill.

There is one thing while I am on my feet, if the Senator will allow me, that I wish to say, and that is water is never lost by taking it out of a stream and putting it on the land. Take a thousand cubic feet of water out of a stream and put it on the land and it will find its way back to the channel again with no diminution at all. The Senator will recognize that fact if he is familiar with the subject of irrigation.

Mr. QUARLES. Mr. President, I do not profess to be informed in regard to details of irrigation, but I do know that on the Gila River there was a band of Indians who had always had an abundance of water to carry on irrigation who were compelled to come before our committee and ask for aid because the appropriation of the waters of the Gila River farther up the stream had absolutely deprived them of water. Does not the Senator know that the water of the Gila River and its tributaries is almost entirely appropriated in Arizona and consumed right there in irrigation? The allegations in the verified bill in the case of Kansas *v.* Colorado are that in the State of Colorado the waters have been appropriated to such an extent that the river ceases to flow through Kansas, although in all the years before there had been an abundant flow. I refer my distinguished friend to authoritative instances of that kind rather than to assert any opinion of my own.

Mr. BURTON. The cases which the Senator has cited are not authoritative at all. There is no such thing as the loss of water by its appropriation for irrigation if you will wait long enough for the water to percolate through the ground back again into the stream.

I hesitate to speak about the case that is pending between Colorado and Kansas; but it is not brought by irrigationists; it is brought by lawyers. The fact about the matter is that every single drop of water taken out by the ditches in Colorado will get back into the stream in Kansas, whether there is ever any case tried or not. Take 1,000 or 10,000 cubic feet of water out of the stream, say at Pueblo or at Rockyford, or any place between Pueblo and the State line, spread that water over the country, and in the course of a few years it finds its way back into the channel, and there will be just as much water in Kansas as there was before a drop was taken out.

Mr. BEVERIDGE. Mr. President, in answer to the remark of my friend the Senator from Kansas [Mr. BURTON] that in the course of a few years the water will seep back into the channel, I ask him what would become of the lands lying around the channel where it was dry?

Mr. BURTON. The lands would be there. [Laughter.]

Mr. BEVERIDGE. The lands certainly would.

Mr. BURTON. They will not get away. If the water was on the land before the ditches were built in Colorado, the water can not be taken out at all under existing law. For instance, if a ditch is built and it appropriates the water, enough of the water must be permitted to go down the channel to be used by the ditch first built. That is the law everywhere.

The suit referred to was brought upon the idea that all the water could be appropriated above and thus deplete the stream below it. That is the basis of the fallacy.

Mr. BEVERIDGE. I am not talking about the suit; I am talking about the Senator's fallacy, because I think it is the Senator's fallacy and not the fallacy of the conclusion drawn by the Senator from Wisconsin. Now, the Senator from Kansas says that if water is taken out of a stream, no matter how much, for irrigation it is not lost. That is a good deal like saying that force is never lost. Of course it is never lost, because it goes some place else; but it is lost for available use. The Senator states that if water is taken out of a stream so that the channel below is dry, in the course of a few years it will seep back into the channel. The Senator means us to understand that the water is not lost. Of course not; it goes some place; but what becomes of the land that was under cultivation, which lies along the stream, when the stream becomes dry? That is the question.

The Senator from Wisconsin has read authorities which the Senator from Kansas says are not authoritative. I submit that is a question of opinion. It occurs to me that they are authoritative, and he will permit me to give one more. When the subcommittee was at Phoenix we found that the irrigation channel had taken a large volume of water from Salt River some miles above the city, and that the stream opposite the city was therefore totally dry. That is a very familiar experience, I am told, in those regions. So that, outside of the theory of the nonloss of water, like the theory of the nonloss of force, is the practical matter that when you divert from the channel of the stream enough water for irrigation, or any other purpose, you use it up and, of course, the channel below is dry; and to say that it seeps back is a good deal like saying that if you drew off all the water there was in a well you would not pump the well dry, because in time it would seep back. Nobody contends that water is lost or destroyed any more than anybody contends that force is destroyed. It has gone somewhere else—that is the trouble.

Mr. QUARLES. Mr. President, I do not pretend to be an expert on irrigation, but I had always supposed that it was an elementary principle of physics that if water were poured on a hot stove evaporation would result. I think I can not be mistaken about that simple proposition. If you turn a stream of water into the hot sands is not evaporation enormously increased at once?

Mr. BURTON. Evaporation is so small that it is not appreciable. In any of the canals that have been built the loss of water by evaporation is so small that it is not measurable at all. The streams that were dry, of which the Senator spoke, were in that condition because the water had been recently taken out above. In the course of a short time, in a few years, the same water that is taken out and spread upon the land gets back into the channel again. That is the point I was trying to make. The loss by evaporation in irrigation amounts to nothing. It is so small that it is not counted at all.

Mr. QUARLES. I wish that the distinguished Senator had been in the Senate when another distinguished Senator from the West [Mr. TELLER], presumably familiar with this subject, announced here this afternoon that the evaporation by reason of irrigation amounted to 12½ to 15 per cent. It seems to me that is quite an appreciable amount, and I would advise my distinguished friend from Kansas, if he is candid in his view, to make haste to get into the Supreme Court and convince them of this doctrine rather than to discuss it here.

Mr. BURTON. There is little danger of any harm coming from the decision of the Supreme Court when the facts are finally presented in regard to this matter. There is nobody being hurt by it now. I will say to the Senator that, in my opinion, the loss—I will repeat it again—the loss of water by irrigation is only temporary; it gets back to the channel.

Mr. QUARLES. Mr. President, I have been speaking already longer than I intended. I am somewhat weary and I should be glad to yield the floor at this time and resume to-morrow.

Mr. SPOONER. Would my colleague prefer to discontinue his speech at this time until to-morrow?

Mr. QUARLES. I would much prefer it, if that is agreeable to the Senate.

Mr. SPOONER. Where is the Senator from Pennsylvania [Mr. QUAY]?

The PRESIDENT pro tempore. The Chair will occupy a few moments of time, with the permission of the Senator from Wisconsin.

Mr. SPOONER. I have no doubt the Senator from Pennsylvania will consent to that.

The PRESIDENT pro tempore. The Chair at this time will lay before the Senate bills from the House of Representatives for reference.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. 7648) to authorize the construction of a bridge across the Missouri River and to establish it as a post-road;

A bill (H. R. 16509) to authorize the Pearl and Leaf Rivers Railroad Company to bridge Pearl River in the State of Mississippi;

A bill (H. R. 16573) to authorize the construction of a bridge across St. Francis River at or near the town of St. Francis, Ark.;

A bill (H. R. 16602) to extend the time granted to the Muscle Shoals Power Company by an act approved March 3, 1899, within which to commence and complete the work authorized in the said act to be done by said company, and for other purposes;

A bill (H. R. 16646) to authorize the construction of a bridge across Bogue Chitto in the State of Louisiana;

A bill (H. R. 16881) to authorize the court of county commissioners of Geneva County, Ala., to construct a bridge across the Choctawhatchee River in Geneva County, Ala.;

A bill (H. R. 16909) to amend an act entitled "An act authorizing the construction of a bridge across the Cumberland River at or near Carthage, Tenn.," approved March 2, 1901;

A bill (H. R. 16915) authorizing the commissioners' court of Escambia County, Ala., to construct a bridge across Conecuh River at or near a point known as McGowans Ferry, in said county and State; and

A bill (H. R. 16975) to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Eastern Railroad Company.

The following bills were severally read twice by their titles, and referred to the Committee on the Judiciary:

The bill (H. R. 14512) to amend an act to add certain counties in Alabama to the northern district therein, and to divide the said northern district, after the addition of said counties, into two divisions, and to prescribe the time and places for holding courts therein, and for other purposes, approved May 2, 1884; and

A bill (H. R. 17088) to create a new division of the eastern judicial district of Texas, and to provide for terms of court at Texarkana, Tex., and for a clerk to said court, and for other purposes.

The following bills were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (H. R. 12952) authorizing the Secretary of the Interior to issue patent to the Rochford Cemetery Association to certain lands for cemetery purposes; and

A bill (H. R. 16731) permitting the town of Montrose, Colo., to enter 160 acres of land for reservoir and water purposes.

The following bill and joint resolution were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (H. R. 3100) providing for the conveyance of Widows Island, Maine, to the State of Maine; and

A joint resolution (H. J. Res. 8) tendering the thanks of Congress to Rear-Admiral Louis Kempff, United States Navy, for meritorious conduct at Taku, China.

The following bills were severally read twice by their titles, and referred to the Committee on Military Affairs:

A bill (H. R. 7) authorizing the Secretary of War to cause to be erected monuments and markers on the battlefield of Gettysburg, Pa., to commemorate the valorous deeds of certain regiments and batteries of the United States Army; and

A bill (H. R. 15243) to authorize the President of the United States to appoint Kensey J. Hampton captain and quartermaster in the Army.

The bill (H. R. 13387) to amend an act entitled "An act to prevent the extermination of fur-bearing animals in Alaska," and for other purposes, was read twice by its title, and referred to the Committee on Foreign Relations.

The bill (H. R. 15986) regulating the practice of medicine and surgery in the Indian Territory was read twice by its title, and referred to the Committee on Indian Affairs.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. B. F. BARNES, one of his secretaries, announced that the President had on the 2d instant approved and signed the following acts:

An act (S. 3238) granting a pension to Martha Elizabeth Hench;

An act (S. 4121) granting a pension to Elizabeth Jacobs;

An act (S. 4296) granting a pension to Andrew Ady;

An act (S. 5280) granting a pension to Dollie Cosens;

An act (S. 6361) granting a pension to Emma Dean Powell;

An act (S. 6693) granting a pension to Mary J. Ivey;

An act (S. 252) granting an increase of pension to Levi H. Peddycoard;

An act (S. 1131) granting an increase of pension to Sydda B. Arnold;

An act (S. 1614) granting an increase of pension to Nelson W. Carlton;

An act (S. 1637) granting an increase of pension to Annie A. Neary;

An act (S 1903) granting an increase of pension to Hamline B. Williams;

An act (S. 1978) granting an increase of pension to Wesley S. Potter;

An act (S. 2084) granting an increase of pension to Samuel E. Ewing;

An act (S. 2806) granting an increase of pension to Laura S. Picking;

An act (S. 2863) granting an increase of pension to Mary L. Purington;

An act (S. 3250) granting an increase of pension to Winfield S. Piety;

An act (S. 3298) granting an increase of pension to William A. Kimball;

An act (S. 3607) granting an increase of pension to Oliver P. Helton;

An act (S. 3644) granting an increase of pension to James Mealey;

An act (S. 3730) granting an increase of pension to Jonas Olmstead;

An act (S. 3773) granting an increase of pension to Leroy Roberts;

An act (S. 3940) granting an increase of pension to Eliza C. Deery;

An act (S. 3970) granting an increase of pension to Mary Elizabeth Fales;

An act (S. 4332) granting an increase of pension to Mary B. Heddleson;

An act (S. 4401) granting an increase of pension to Frederick Kropf;

An act (S. 4412) granting an increase of pension to John G. Rees;

An act (S. 4515) granting an increase of pension to Alfred O. Blood;

An act (S. 4827) granting an increase of pension to George W. Scott;

An act (S. 5244) granting an increase of pension to William H. Maxwell;

An act (S. 5352) granting an increase of pension to William Flinn;

An act (S. 5355) granting an increase of pension to George A. King;

An act (S. 5412) granting an increase of pension to Henry E. Spring;

An act (S. 5643) granting an increase of pension to Nicholas Smith;

An act (S. 5976) granting an increase of pension to Milton Frazier;

An act (S. 6071) granting an increase of pension to Mary Manes;

An act (S. 6132) granting an increase of pension to Fanny McHarg;

An act (S. 6155) granting an increase of pension to William Markle;

An act (S. 6182) granting an increase of pension to Lila L. Egbert;

An act (S. 6257) granting an increase of pension to Mary B. Keller;

An act (S. 6467) granting an increase of pension to Sarah E. Ropes;

An act (S. 6492) granting an increase of pension to Thomas Starrat;

An act (S. 6514) granting an increase of pension to Stephen J. Houston;

An act (S. 6526) granting an increase of pension to Orin T. Fall;

An act (S. 6543) granting an increase of pension to David C. Morgan; and

An act (S. 6614) granting an increase of pension to Bertha R. Koops.

STATEHOOD AMENDMENTS.

Mr. QUAY. Mr. President, I should be glad to know what became of the reports made from my committee a few days ago?

The PRESIDENT pro tempore. They are on the Calendar.

Mr. QUAY. I think they had better take the ordinary reference. I do not see any objection to such a course, and I will ask that they be referred.

The PRESIDENT pro tempore. They can not be taken up without calling them from the Calendar.

Mr. BEVERIDGE. What is the request?

Mr. QUAY. That the reports made from my committee a few days ago shall be referred in accordance with the request of the committee. It is a matter of indifference, but they ought to be disposed of.

Mr. SPOONER. From what committee were they reported?

Mr. QUAY. From the Committee on Organization, Conduct, and Expenditures of the Executive Departments.

Mr. SPOONER. What is the nature of the report?

Mr. QUAY. It is the report on the statehood bill. The reference, of course, amounts to nothing under the circumstances, but I think the reports ought to be referred to the proper committee, or else a precedent will be established that may be troublesome in the future.

The PRESIDENT pro tempore. They can only be taken from the Calendar by motion.

Mr. QUAY. Then I move that they be taken up.

Mr. BEVERIDGE. That is not necessary, because there is not going to be any objection.

Mr. QUAY. They will have to be taken up anyway.

Mr. BEVERIDGE. There is not going to be any objection to their being referred as the Senator requests.

The PRESIDENT pro tempore. The Senator from Pennsylvania asks that Calendar No. 2703, being an amendment to the Agricultural appropriation bill, providing for the admission of the Territories of Oklahoma, Arizona, and New Mexico into the Union as States, be referred to the Committee on Agriculture and Forestry, and that Calendar No. 2704, being an amendment to the sundry civil appropriation bill, providing for the admission of the Territories of Oklahoma, Arizona, and New Mexico into the Union as States, be referred to the Committee on Appropriations. Is there objection? The Chair hears none, and that order is made.

Mr. BEVERIDGE. I want merely to say in that connection that it will be admitted by every person, no matter what his views may be as to the merits of this measure, that this is an extraordinary procedure. It requires something to be done right now in an unusual method, and therefore it is proper to call attention to what is required to be done in this method of proposed attachment to an appropriation bill.

The first thing we see is that it is proposed not only to put onto an appropriation bill a bill having nothing to do with appropriations, but to put onto such a bill a thing which never can be undone if enacted into law. In that respect it differs from everything else. It is serious, far-reaching, irrevocable. Is there an emergency—and I am not going to argue the matter; I am merely calling the attention of the Senate to it at this time—before the Senate for such an unusual method in such a hurry? Not only is it everlasting in its consequences, not only does it forever affect the Republic, but there is earnest, determined difference of opin ion upon it. Should such a measure be rushed in this revolutionary way?

As I said, I will make no objection to the reference of this amendment now, but this is a large general subject, and I have no doubt that at the proper time it will be discussed to the satisfaction of the Senator from Pennsylvania. But I thought it was proper at this juncture to call attention in a general way to just what is proposed.

Mr. QUAY. I merely wish to say, Mr. President, that the Senator is mistaken in saying the proceeding is unusual. The records of this Senate teem with precedents of this character.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. J. BROWNING, its Chief Clerk, announced that the House had passed the bill (S. 3546) for the relief of L. A. Noyes.

The message also announced that the House had passed the concurrent resolution of the Senate requesting the President to return to the Senate the bill (S. 1115) for the relief of Francis S. Davidson, late first lieutenant, Ninth United States Cavalry.

EXECUTIVE SESSION.

Mr. CULLOM. Mr. President, if there is nothing before the Senate I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty minutes spent in executive session the doors were reopened, and (at 4 o'clock and 50 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, February 4, 1903, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 3, 1903.

MINISTER PLENIPOTENTIARY.

Arthur M. Beaupré, of Illinois, now secretary of legation and consul-general there, to be envoy extraordinary and minister plenipotentiary of the United States to Colombia, vice Charles Burdett Hart, resigned.

CONSUL-GENERAL.

Alban G. Snyder, of West Virginia, to be secretary of legation and consul-general of the United States at Bogota, Colombia, vice Arthur M. Beaupré, nominated to be envoy extraordinary and minister plenipotentiary there.

SURGEON IN PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

P. A. Surg. Gregorio M. Guiteras, of South Carolina, to be a surgeon in the Public Health and Marine-Hospital Service of the United States, in place of John Vansant, deceased.

PROMOTIONS IN THE ARMY.

Infantry Arm.

Capt. Edward H. Plummer, Tenth Infantry, to be major, December 31, 1902, vice Peshine, Eleventh Infantry, retired from active service.

First Lieut. Ira C. Welborn, Ninth Infantry, to be captain, December 29, 1902 (subject to examination required by law), vice Thurston, Sixteenth Infantry, promoted.

First Lieut. David E. W. Lyle, Fourteenth Infantry, to be captain, December 30, 1902, vice Jones, Twenty-seventh Infantry, detailed as quartermaster.

First Lieut. Alexander E. Williams, Second Infantry, to be captain, December 31, 1902, vice Plummer, Tenth Infantry, promoted.

First Lieut. Romulus F. Walton, Tenth Infantry, to be captain, January 9, 1903, vice Gleason, Sixth Infantry, deceased.

First Lieut. Charles W. Exton, Twentieth Infantry, to be captain, January 10, 1903, vice Roydon, Twenty-sixth Infantry, retired from active service.

First Lieut. David P. Wheeler, Twenty-second Infantry, to be captain, January 27, 1903, vice Lawton, Twenty-sixth Infantry, retired from active service as major and judge-advocate.

Second Lieut. John T. Dunn, Eleventh Infantry, to be first lieutenant, October 11, 1902, vice Maginnis, Eleventh Infantry, promoted.

Second Lieut. De Witt W. Chamberlin, Second Infantry, to be first lieutenant, October 18, 1902, vice Berry, First Infantry, promoted.

Second Lieut. Kaolin L. Whitson, Twenty-seventh Infantry, to be first lieutenant, October 21, 1902, vice Hammond, Ninth Infantry, promoted.

Second Lieut. Walter H. Johnson, Eighth Infantry, to be first lieutenant, November 8, 1902, vice Ingram, Fifth Infantry, promoted.

Second Lieut. Robert E. Grinstead, Twenty-third Infantry, to be first lieutenant, November 28, 1902, vice Davis, Seventeenth Infantry, promoted.

Second Lieut. Albert S. Williams, Twenty-sixth Infantry, to be first lieutenant, December 3, 1902, vice Janda, Eighth Infantry, promoted.

Cavalry Arm.

Lieut. Col. Charles L. Cooper, Fourteenth Cavalry, to be colonel, January 30, 1903, vice Swigert, Fifth Cavalry, retired from active service.

Maj. Alexander Rodgers, Fourth Cavalry, to be lieutenant-colonel, January 30, 1903, vice Cooper, Fourteenth Cavalry, promoted.

Capt. James Lockett, Fourth Cavalry, to be major, January 30, 1903, vice Rodgers, Fourth Cavalry, promoted.

First Lieut. William D. Chitty, Third Cavalry, to be captain, January 30, 1903, vice Lockett, Fourth Cavalry, promoted.

PROMOTIONS IN THE NAVY.

Lieut. (Junior Grade) Michael J. McCormack, to be a lieutenant in the Navy from the 1st day of January, 1903, vice Lieut. William H. Buck, resigned.

Pay Inspector James A. Ring, to be a pay director in the Navy from the 10th day of December, 1902, vice Pay Director Joseph Foster, retired.

Pay Inspector Reah Frazer, to be a pay director in the Navy from the 19th day of January, 1903, vice Pay Director Albert S. Kenny, retired.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 3, 1903.

ASSISTANT COMMISSIONER OF GENERAL LAND OFFICE.

John H. Fimple, of Carrollton, Ohio, to be Assistant Commissioner of the General Land Office.

CONSUL.

Levi S. Wilcox, of Illinois, now consul at that place, to be consul-general of the United States at Hankau, China.

APPRAISER OF MERCHANDISE.

George H. Allan, of Maine, to be appraiser of merchandise in the district of Portland and Falmouth, in the State of Maine.

COLLECTOR OF CUSTOMS.

Nelson E. Nelson, of North Dakota, to be collector of customs for the district of North and South Dakota, in the States of North Dakota and South Dakota.

APPOINTMENTS IN THE NAVY.

Frederick S. W. Dean, a citizen of South Carolina, to be an assistant surgeon in the Navy from the 26th day of January, 1903.

Richard L. Sutton, a citizen of Missouri, to be an assistant surgeon in the Navy from the 26th day of January, 1903.

Ransom E. Riggs, a citizen of South Carolina, to be an assistant surgeon in the Navy, from the 19th day of January, 1903.

ASSISTANT NAVAL CONSTRUCTORS.

1. Jules A. Furer.
2. William B. Fogarty.
3. Sidney M. Henry.
4. Lewis B. McBride.

PROMOTIONS IN THE NAVY.

1. Commander Charles C. Cornwell, to be captain in the Navy from 10th day of January, 1903.
2. Pay Inspector Samuel R. Colhoun, to be a pay director in the Navy from the 22d day of November, 1902.
3. Pay Inspector John N. Speel, to be a pay director in the Navy from the 11th day of January, 1903.
1. Lieut. (Junior Grade) Edward H. Watson, to be a lieutenant in the Navy from the 2d day of December, 1902.
2. Lieut. (Junior Grade) Orlo S. Knepper, to be a lieutenant in the Navy from the 2d day of December, 1902.
3. Lieut. (Junior Grade) Edward H. Dunn, to be a lieutenant in the Navy from the 10th day of January, 1903.
4. Asst. Surg. Ralph W. Plummer, to be a passed assistant surgeon in the Navy from the 17th day of June, 1902.

PROMOTION IN THE MARINE CORPS.

First Lieut. Frederick L. Bradman, United States Marine Corps, to be a captain in the Marine Corps from the 23d day of July, 1901.

POSTMASTERS.

ILLINOIS.

Edwin L. Welton, to be postmaster at Centralia, in the county of Marion and State of Illinois.

Stacy W. Osgood, to be postmaster at Winnetka, in the county of Cook and State of Illinois.

William C. Heining, to be postmaster at Red Bud, in the county of Randolph and State of Illinois.

INDIANA.

William L. Walker, to be postmaster at Carthage, in the county of Rush and State of Indiana.

John W. Hill, to be postmaster at Redkey, in the county of Jay and State of Indiana.

Asa M. Ballinger, to be postmaster at Upland, in the county of Grant and State of Indiana.

IOWA.

Joseph E. Howard, to be postmaster at Forest City, in the county of Winnebago and State of Iowa.

KANSAS.

Edward J. Byerts, to be postmaster at Hill City, in the county of Graham and State of Kansas.

James S. Alexander, to be postmaster at Florence, in the county of Marion and State of Kansas.

MICHIGAN.

Edgar B. Babcock, to be postmaster at Kalkaska, in the county of Kalkaska and State of Michigan.

MISSISSIPPI.

Frank Fairly, to be postmaster at Mount Olive, in the county of Covington and State of Mississippi.

John W. Lockhart, to be postmaster at Durant, in the county of Holmes and State of Mississippi.

NORTH CAROLINA.

Isaac M. Meekins, to be postmaster at Elizabeth City, in the county of Pasquotank and State of North Carolina.

OKLAHOMA.

George S. Walker, to be postmaster at Bridgeport, in the county of Caddo and Territory of Oklahoma.

Perry C. Hughes, to be postmaster at Busch, in the county of Roger Mills and Territory of Oklahoma.

Charles W. Sherwood, to be postmaster at Okeene, in the county of Blaine and Territory of Oklahoma.

John H. Asbury, to be postmaster at Lexington, in the county of Cleveland and Territory of Oklahoma.

John R. Tate, to be postmaster at Blackwell, in the county of Kay and Territory of Oklahoma.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February 3, 1903.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. HENRY N. COUDEN, D. D.

The Journal of yesterday's proceedings was read and approved.

OKLAHOMA AND WESTERN RAILROAD COMPANY.

The SPEAKER laid before the House the bill (H. R. 9503) to authorize the Oklahoma and Western Railroad Company to construct and operate a railway through the Fort Sill Military Reservation, and for other purposes, with Senate amendments, which were read.

Mr. HULL. Mr. Speaker, all these amendments are recommended by the War Department, excepting inserting the word "city" after Oklahoma. I move to concur in all the amendments of the Senate.

The question was taken, and the motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. PARKINSON, its reading clerk, announced that the Senate had passed joint resolution and bills of the following title; in which the concurrence of the House was requested:

S. R. 138. Joint resolution authorizing the Secretary of War to furnish condemned cannon for a life-size statue of Gen. Henry Leavenworth at Leavenworth, Kans.;

S. 6421. An act to amend an act entitled "An act to amend an act entitled 'An act relating to tax sales and taxes in the District of Columbia,'" approved May 13, 1892; and

S. 3112. An act conferring jurisdiction upon the Court of Claims to hear and determine the claims of the Chippewa Indians of Lake Superior and the Mississippi, and to determine the claims of the White River or confederated bands of Ute Indians, of Colorado, and the Delaware Indians.

The message also announced that the Senate had passed without amendment bills of the following titles:

H. R. 16724. An act to provide for an additional judge of the district court of the United States for the southern district of New York;

H. R. 16099. An act to cancel certain taxes assessed against the Kall tract;

H. R. 15747. An act directing the issue of a check in lieu of a lost check drawn by George A. Bartlett, disbursing clerk, in favor of Fannie T. Sayles, executrix, and others;

H. R. 5756. An act for the relief of the officers and crew of the U. S. S. *Charleston*, lost in the Philippine Islands, November 2, 1899;

H. R. 647. An act for the relief of William P. Marshall; and

H. R. 159. An act providing for free homesteads on the public lands for actual and bona fide settlers in the north half of the Colville Indian Reservation, State of Washington, and reserving the public lands for that purpose.

The message also announced that the Senate had passed the following resolution; in which the concurrence of the House was requested:

Senate concurrent resolution 62.

Resolved, That the President be requested to return to the Senate the bill (S. 1115) for the relief of Francis S. Davidson, late lieutenant, Ninth United States Cavalry.

SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolution of the following titles were taken from the Speaker's table and referred to their appropriate committees as indicated below:

S. 3112. An act conferring jurisdiction upon the Court of Claims to hear and determine the claims of the Chippewa Indians of Lake Superior and the Mississippi, and to determine the claims of the White River or Confederated bands of Ute Indians of Colorado, and the Delaware Indians—to the Committee on Indian Affairs.

S. 6421. An act to amend an act entitled "An act to amend an act relating to tax sales and taxes in the District of Columbia," approved May 13, 1892—to the Committee on the District of Columbia.

S. R. 138. Joint resolution authorizing the Secretary of War to furnish condemned cannon for a life-size statue of Gen. Henry Leavenworth, at Leavenworth, Kans.—to the Committee on Military Affairs.

ORDER OF BUSINESS.

The SPEAKER. This brings up the special order, namely, the claims bills not disposed of. The Chair will recognize the gentleman from Illinois, chairman of the committee, in favor of the bills, and the gentleman from New York [Mr. PAYNE] in opposition to them; and under the agreement there is ten minutes debate allowed on each side on each bill.

Mr. GRAFF. Will the bills be called up in the same order that they were the other day?

The SPEAKER. They will come up in their order.

ELEONORA G. GOLDSBOROUGH.

The first business was the bill (S. 3421) for the relief of Eleonora G. Goldsborough.

Mr. PAYNE. Mr. Speaker, Charles B. Goldsborough was a surgeon in the Marine-Hospital Service, and died on the 5th of January, 1890, in that service. So that the House will see that he was in the civil branch of the United States service. It is claimed that he died of blood poisoning growing out of an operation performed on a negro sailor in the summer of 1888, two years before his death. The only evidence there is upon this subject is the statement of Mrs. Goldsborough, the claimant, the widow of Dr. Goldsborough. Perhaps I ought to say that the bill provides that she shall receive two years' pay and extra allowance, amounting to $7,220, on account of his death. She states, referring to her husband:

While on duty in the city of Mobile he was desperately ill of malarial fever, and from there he was ordered to Chicago, the extreme cold of which, following upon the warmer temperature of Mobile, brought on a serious attack of rheumatism, from which he had not wholly recovered when he was again ordered to New Orleans. While engaged in the course of his duty he contracted blood poison in the performance of an operation, which also tended to undermine his health, and in April, 1889, he was again attacked by malarial fever, which his already weakened constitution was unable to withstand, and from which, together with the other complications, he eventually died.

There is also this statement from Dr. Ames, late passed assistant surgeon in the Marine-Hospital Service:

SPRINGFIELD, MASS., *March 7, 1902.*

I hereby certify that I attended Surg. Charles B. Goldsborough in the marine hospital, New Orleans, in November and December, 1889, and until his death, January 5, 1890. His death was due primarily to "blood poisoning," as manifested by the formation of abscesses and carbuncles.

While not personally cognizant of the fact, as I was not stationed in New Orleans at the time, I have frequently heard that Surgeon Goldsborough had been poisoned while operating upon a negro sailor in the summer of 1888.

Very respectfully,

R. P. M. AMES,
Late Passed Assistant Surgeon, M. H. S.

That is all the evidence in the case in regard to the blood poisoning, if that is a material factor in that respect to the Government. The committee say:

Upon the strength of this there can be no reasonable doubt that Surgeon Goldsborough's death was directly due to the effects of the operation in August, 1888.

The operation in August in which he was said to have contracted blood poisoning.

Now, the committee say there is one precedent for this bill:

It may be stated that a precedent for the bill now under consideration has been made by the act approved June 15, 1898, which granted the legal representatives of Asst. Surg. John W. Branham, of the Marine-Hospital Service, the amount of his salary and allowances for two years, Dr. Branham having died of yellow fever after serving about five months. Surgeon Goldsborough gave faithful service for twelve years.

The committee say:

The Branham case was an exceptional one. This case comes in the same class and is considered equally exceptional.

Your committee are of the opinion that Dr. Goldsborough died of an infectious disease acquired in the performance of his duty, and the bill is therefore returned with the recommendation that it pass when amended.

The bill is therefore reported with the recommendation to pass it as amended, and the amendments make an allowance for two years, amounting in all to $7,200.

Now, Mr. Speaker, of course all men wish to sympathize with the widow who has been bereft of her husband. I suppose there are hundreds of thousands, perhaps a million deserving widows in the United States who lost their husbands, many of them who have lost their husbands in the civil service, many of them who have lost their husbands because of disease contracted without doubt in the civil service and as a result of the civil service. But it has never been the policy of the Government of the United States to pension any person because of any disease or any other disability contracted in the civil service.

If this bill for Branham crept through the House at some time without its being noticed and without debate, or if it crept through the House at some time during a yellow fever excitement, because a man had braved death in taking care of a patient who was afflicted with that disease—that deadly disease, that infectious disease—it should furnish no precedent, Mr. Speaker, for the House in their opening up a new career of pensions; opening a different kind of pensions; to depart from the rule from the foundation of the Government, to pension only those in the military and naval service of the Government of the United States. Gentlemen may say, "Oh, this is only one case; we will not follow it with this class of cases." And yet the Branham case is made a precedent for this bill; and the next case that would come here would be fortified by the Branham case and the Goldsborough case; and yet we find there is not sufficient evidence in the case on which any man could say that this doctor died of blood poisoning superinduced by an operation performed upon a negro sailor two years before he died.

And yet this is the class of cases upon which the House is called upon to act. This is a precedent we are asked to make. I submit that gentlemen should stand up here and do justice to the United States, not simply deal out mercy or charity to a widow that happens to bring her claim to us. No man has the right in his representative capacity to put his hand into the Treasury of the United States and deal out charity to any of its citizens. He should rather dispense justice here, and when charity appeals put his hand in his own pocket, into his own personal treasury, and deal out charity to any who may come to us. Mr. Speaker, I reserve the balance of my time.

Mr. STEPHENS of Texas. I would like to ask the gentleman a question.

Mr. PAYNE. Very well.

Mr. STEPHENS of Texas. Would not this furnish a precedent to all persons in the employ of the Government and put them on the civil-pension list?

Mr. PAYNE. It certainly would tend in that direction.

Mr. HEPBURN. I would like to ask the gentleman a question before he sits down.

Mr. PAYNE. Certainly.

Mr. HEPBURN. I would like to ask the gentleman if that is not what we are now doing under the civil-service rules that in part control the departments?

Mr. PAYNE. I do not think we are.

Mr. HEPBURN. Are there not more than a thousand persons practically pensioned in the departments under the civil service?

Mr. PAYNE. I do not think there are; but I do think there are men and women in the departments who are unfit to be there and who do not earn their salary.

Mr. HEPBURN. Would not that number be constantly increasing?

Mr. PAYNE. I do not know; the gentleman is as good a prophet as I am. I call attention to the fact that that has not been done by an act of Congress, but by the departments keeping clerks there after they are unfit for service. I know the departments are weeding out of the service these people or putting them on a lower salary.

Mr. GRAFF. Mr. Speaker, I now yield to the gentleman from Maryland [Mr. SCHIRM] who reported this bill.

Mr. SCHIRM. Mr. Speaker, it is refreshing undoubtedly to this House to listen to the leader on this side of the Chamber making a plea for justice and imputing motives to other members of this House in their position in support of this question. We are not attempting to put our hands into the Treasury of the United States to deal out pure and simple charity to anyone. We do believe, however, that the widow of this marine-hospital surgeon, Charles B. Goldsborough, is entitled to some consideration, because he lost his life as a direct result of his duties at the hospital.

I doubt not that on many occasions, if we are going into the sphere of the vague, as the gentleman from New York has done, that his vote will be found recorded on many questions that favored charitable claims coming from his own district and State when he did not go into his own pocket to deal out the charity. There is a precedent for this bill, and that precedent was made in 1898, when Assistant Surgeon Branham died as a result of his service in the pest hospital and his widow or legal representatives were given two years' salary with allowances. The gentleman from New York was a member of the House then. Perhaps he was not here when the bill was passed, and the fact that it escaped him induces him to say that it crept through or that "through some excitement as the result of the yellow fever in the South the hearts of men, being a little more touched with charity, allowed it to go through."

He had an opportunity to know that this bill was before the House then, and he made no objection. It is not fair to the rest of the members who did know that the bill was before the House that improper motives should be imputed to them by the leader on this side of the Chamber. The whole cry is that we are establishing a civil pension list. I was glad to receive the suggestion from the gentleman from Iowa [Mr. HEPBURN] on that line. We have, as a matter of fact, established a civil pension list. The great army of employees in Washington has among it many who ought to be dropped out, many who are useless to the Government, who are kept there through the charity of some people that have influence enough to control the powers that be.

Mr. STEPHENS of Texas. Is it not the duty of the head of every department to discharge every clerk under them that can not perform his duty; and are not the heads of the departments failing to perform their duty when they refuse to discharge incompetent persons?

Mr. SCHIRM. The question of unfitness of an employee is one of opinion.

Mr. GROSVENOR. Will the gentleman from Maryland permit me a suggestion?

Mr. SCHIRM. Certainly.

Mr. GROSVENOR. They can discharge them by having a lawsuit with every one of them and an appeal to a higher court to see whether the charges are true or false.

Mr. SCHIRM. Yes; it was for that reason that I made the remark that the matter of unfitness or fitness is one of opinion, and the heads of the departments are like all other human beings and subject to the charitable suggestions of gentlemen influential in this and other branches of the Government.

Mr. STEPHENS of Texas. Let me ask the gentleman if it is not the Democrats that were dropped, not Republicans, and no reason given for it?

Mr. SCHIRM. Well, they probably were incompetent. [Laughter.] I say it is a matter of opinion, and I see the gentleman from Texas is coming around to our way of thinking. From the question he put to the gentleman from New York I thought he was against us; now I think he is with us.

Mr. Speaker, it is not purely a matter of charity, and when the committees of the Senate and the House reported the Branham case they said:

> Your committee fearlessly blaze the way, as indicated in this report, because we think it an act of simple justice, and but poorly carrying out the implied obligation upon the Government to relieve the wants of the wife and children of one who heroically faced a danger fully equal to that encountered by the soldier in time of war.

To my mind there is very little difference between giving up your life upon the battlefield and giving it up in the hospital in this kind of dangerous work. It is well known that the service in the Marine Hospital is more dangerous than that performed by naval surgeons, and naval surgeons may be retired upon part pay, and in case of death a pension is provided for their families.

I believe that this case appeals to the justice of the House; and I rather apprehend from my short experience as a member of the Committee on Claims that there was a great deal of charity mingled with our decisions upon claims that were brought before us; for in but very few cases could we get absolute legal proof. We had to take some things for granted; and in most cases we gave the claimants the benefit of reasonable doubts. I do not believe that this House has reached the point where it will establish itself as an absolutely legal tribunal that will not grant anything to a claimant unless strict legal proof is brought, or unless the facts come within strict legal requirements. This is an appeal to justice, the charitable justice of this House. I leave it to the House for its decision.

Mr. PEARRE. Mr. Speaker, I feel called upon to endeavor so far as I can to correct perhaps some misapprehensions which may arise in regard to this bill. The applicant or claimant in this case is a lady residing in Maryland, who is absolutely penniless. As the report itself shows, after her husband's death she was left with some little property, but that property has been entirely expended or consumed, not through any fault of hers, but in order to maintain herself and her children.

Now, Mr. Speaker, the gentleman from New York has dilated somewhat upon the subject of precedents in the House of Representatives. If I know anything about this House or have learned anything about it in the short time that I have had the honor of being a member, it is this, that the House of Representatives is the one body in the United States that is above and beyond precedent, that is controlled by no precedent, that makes its own precedents and follows only such precedents as it desires to follow. Mr. Speaker, this following of precedents, to begin with, is not always a very safe policy; because what is a safe precedent in one age or in one day would not be such in another age and another day.

This claim is a claim which, as my colleague from Maryland [Mr. SCHIRM] has said, appeals not only to the charity of this House, but to its sense of justice; and if precedents were needed in order to confirm the justice of this claim they could be found in this Congress and in every Congress which has preceded it for many years. Within my own recollection a bill was passed in this House appropriating a considerable sum of money to the family of a gentleman who lost his life by accidentally falling down an elevator shaft in the Post-Office Department building in this city.

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. PEARRE. I ask unanimous consent for three minutes more.

Mr. FOSTER of Vermont. I object.

The SPEAKER pro tempore. Objection being made, the Chair must enforce the order of the House limiting debate on these bills to ten minutes on each side.

The question being taken on the amendment reported from the Committee of the Whole, it was agreed to.

The SPEAKER pro tempore. The question now recurs on ordering this Senate bill as amended to be read a third time.

The question being taken, there were—ayes 49, noes 67.

Mr. SCHIRM. I make the point of order that no quorum is present.

The SPEAKER pro tempore (having counted the House). The count by the Chair discloses 178 members. A quorum is present.

Mr. SCHIRM. I call for the yeas and nays.

The yeas and nays were not ordered, only 12 members voting in favor thereof.

So the House refused to order the bill to a third reading.

Mr. PAYNE. I move to reconsider the vote just taken, and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOSEPH W. PARISH.

The next business in order was the bill (S. 475) to refer the claim of Joseph W. Parish to the Secretary of the Treasury for examination and payment of any balance found due.

The SPEAKER pro tempore. The question is on ordering this bill to a third reading.

Mr. PAYNE. Mr. Speaker, this case arises out of a contract made by the Government in 1863 with one Joseph W. Parish and another, whose name is not disclosed, for the delivery of ice——

Mr. CANNON. Mr. Speaker, I rise to a question of order. Near as I am to the gentleman from New York [Mr. PAYNE], I can not hear what he is saying.

Mr. BARTLETT. May I ask the gentleman from New York to repeat the date of this contract?

The SPEAKER pro tempore. The gentleman from New York will suspend until the House is in order. [A pause.]

Mr. PAYNE. Mr. Speaker, a contract was made in the spring of 1863 for the delivery of 30,000 tons of ice—5,000 at St. Louis, at $16 a ton; 5,000 at Cairo, at $20, a ton; 10,000 at Memphis, at $20 a ton, and 10,000 at Nashville, at $25 a ton. The whole purchase price was $630,000 for the ice. The ice was to be delivered in these localities. They did deliver under this contract 4,174 tons at St. Louis, 1,388 tons at Cairo, 6,456 tons at Memphis, and 750 tons at Nashville, and received therefor from the Government $228,914. The other 18,000 tons, or nearly 18,000 tons, were not delivered. The contract was made by an assistant surgeon-general. When the Surgeon-General heard of it he promptly told the assistant to suspend the contract. A notice was given to the contractor, which reached him on the 2d day of April, suspending the contract. In the meantime he had bought the ice. Ten thousand tons of it were bought at Lake Pepin, in Minnesota, and it does not appear where the balance of it was bought or what became of it. The 10,000 tons at Lake Pepin melted, were not delivered to the Government, and were a total loss.

After the war was over, and about 1882 or 1883, I think, Congress submitted the claim to the Court of Claims. There was a hearing had before the Court of Claims and the Court of Claims held that this assistant surgeon had no authority to make the contract, and decided in favor of the United States. They also made some findings of fact. The case then went to the Supreme Court of the United States, and the Government abandoned the idea that this assistant surgeon-general could not make the contract, said it was a valid contract, and then the question came as to the amount of damages this party was entitled to recover for the ice which had not been delivered. The Court of Claims found in their ninth finding of facts as follows:

> Said Parish was prepared and willing to deliver said 30,000 tons of ice in conformity with the conditions and obligations of the said contract and the terms of said letter of March 25, 1863, of which the defendants had notice, but they would not nor did receive more than the 12,768 tons aforesaid.

I can not quote as much as I would like to from the decision of the Supreme Court. This is the most important case that will come before this House this day, and I believe it is the most barefaced case that will come before this House to-day or, I hope, in some time. The court say:

> In point of fact, the order was never revoked, but suspended, so that the claimants could not tell whether it would be revoked or revived, and they never made or offered to make delivery of the amount demanded by that order. The Government did require, accept, and pay for part of it. The balance was never delivered or tendered.
>
> Without elaborating the matter, we are of opinion that as the claimants neither delivered or offered to deliver the remainder, they can not recover either the contract price or the profits they might have made if they had done so. And as the Government left the demand suspended, so that while claimants were compelled to purchase under the original order, and could not safely dispose of it while it remained unrevoked, they are entitled to recover what they paid for the ice that was lost, and what expense they were at in making the purchase and in keeping it until it was lost. So if they lost anything on the other ice not purchased at Lake Pepin, but purchased before they learned of the order of suspension, they should recover that.

Now, in regard to this Lake Pepin ice, the Court of Claims made a finding upon that. The eighth finding of facts is as follows:

> Of the 23,000 tons of ice purchased by said Parish between the 25th of March and the 2d of April, 1863, the quantity of 10,000 tons was purchased at Lake Pepin, in Minnesota, and in the month of April the stage of water in the Mississippi River was such that with sufficiency of steamboats and barges

present there in the early part of that month that quantity might have been transported southward to St. Louis and the other places at which the said Parish was required by said contract to furnish said ice; but the said Parish did not have steamboats and barges at said lake in that month to transport the ice which he had purchased there, and after that month the water in said river became and continued so low that the said ice could not be so transported southward, and the same melted and was lost to said Parish.

Or, in other words, as to 10,000 tons of this ice they were not ready and prepared to deliver; they could not float it down from Lake Pepin to these points; they could not have tendered it to the Government; they could not have delivered it to the Government if the Government had demanded it at any time during this summer. Now, the chairman of the committee, as to this very patriotic gentleman who was furnishing this ice to the Government at the rate of $21 a ton and which cost him about $4 a ton, claims that the Supreme Court of the United States made a mistake in reversing, as he says, the tenth finding of facts. Well, the Supreme Court, it is very evident, has made no mistake. Why, the eighth finding of fact reverses the ninth finding of facts, so far as the 10,000 tons are concerned. But the court had the record all before them; the attorney for the claimants knew what the court had decided.

Mr. WILLIAMS of Mississippi. Mr. Speaker, will the gentleman yield for a question?

The SPEAKER pro tempore. Does the gentleman yield?

Mr. PAYNE. Only for a question.

Mr. WILLIAMS of Mississippi. How much did the 10,000 tons cost; how much per ton?

Mr. PAYNE. About $4 a ton. All the ice cost that.

Mr. WILLIAMS of Mississippi. That would be about $40,000, then?

Mr. PAYNE. Well, I will say to the gentleman, if the gentleman will not interrupt me, for I have so little time in which to make a statement, that I think I will cover all the points.

Mr. WILLIAMS of Mississippi. I just asked for information upon that point.

Mr. PAYNE. The Court of Claims found in the first place that he was entitled to $10,000, according to the statement the chairman made the other day. Afterwards it was reopened in the Court of Claims on additional evidence, and he recovered $64,000 damages on this 18,000 tons of ice; so that that man has received $228,914 and $64,000, or a total of $292,914; and by this modest little bill he comes in here and asks us to pay him $337,086 in addition to what we have already paid him, and that for ice that cost him, according to what he recovered before the Court of Claims, about $4 a ton, or about $120,000 for the whole 30,000 tons. He has made a profit, Mr. Speaker, of $160,000, and he does not come in here now as a pauper claiming the sympathy of the House.

Mr. WILLIAMS of Mississippi. Did he ever receive the $10,000 to which you refer?

Mr. PAYNE. He received the $64,000.

The SPEAKER pro tempore. The time of the gentleman has expired. The question is on the third reading of the bill.

Mr. GRAFF. Mr. Speaker, I want to use my time. I desire to say that the other day in the Committee of the Whole House this matter was fully gone into. To-day I have upon my desk the opinion of the Supreme Court and the opinion of the Court of Claims. The other day I cited the fact that the Supreme Court does not go back of the findings of fact of the Court of Claims. That position is invulnerable, and there is no exception in a number of cases decided by the Supreme Court. They are guided by the findings of fact of the Court of Claims. Now the gentleman from New York [Mr. PAYNE] says that this ice cost only $4 a ton—the ice produced, for instance, at Lake Pepin in Minnesota and the ice on the St. Lawrence River in Canada—and that therefore, forsooth, he made the profits equal to the difference between $4 a ton and $18 per ton which he received for the ice he delivered on the Mississippi River at Memphis, at St. Louis, and at other points.

In other words, the gentleman commits the egregious blunder of not taking into consideration the very large expense of transporting this ice from Lake Pepin and from the St. Lawrence River down the Mississippi to the places of destination at these points on that river. I have a report here in my hand made some ten years ago upon this very claim, in which the estimated cost of the delivery of the ice, in addition to the $4 a ton which the gentleman says it cost where it was produced up in the northland, would range from $6 to $10 per ton. It required no small amount of money in those days to carry things so bulky as ice by water navigation the great distance of hundreds of miles down to the points of destination at Memphis, St. Louis, and the other two points.

Mr. MORRIS. Will the gentleman permit a question?

Mr. GRAFF. Yes.

Mr. MORRIS. How about the statement made by the gentleman from New York [Mr. PAYNE] a while ago, that there were 10,000 tons of this ice that this man could not have delivered at all? What is he entitled to at all on that 10,000 tons of ice? If he could not deliver the ice, why is he entitled to anything?

Mr. GRAFF. The finding of fact to which the gentleman refers simply states the opinion of the court that Mr. Parish did not have in his possession large enough steamboats to take this ice down the Mississippi River and deliver it at these points after the Surgeon-General of the United States had directed the assistant surgeon who made the original contract to suspend the delivery of the ice.

Mr. TALBERT. Mr. Speaker, will the gentleman allow me to ask him a question there?

Mr. GRAFF. Yes.

Mr. TALBERT. The gentleman from New York made the statement that this party had made a net profit of $160,000 on the transaction.

Mr. GRAFF. That is impossible.

Mr. TALBERT. The gentleman made the statement.

Mr. GRAFF. The cost of from $3 to $4 a ton for ice where it was produced, in a year when there was no ice produced in this country south of Chicago, added to the expense of delivery, which would range from $6 to $10 a ton, would bring the cost of the ice——

Mr. TALBERT. He said that was the profit made on the whole transaction.

Mr. GRAFF. That is impossible. This item of expense would bring the price of the ice up to something over $14 a ton, and the average he received at the different points ranged from $18 to $21 a ton.

Mr. MORRIS. Another question: Was the lack of transportation for this ice from Lake Pepin to where it was to be delivered due to the revocation of the contract by the Surgeon-General?

Mr. GRAFF. Why, exactly. That is the important point in the bill. The evidence before the court was the claimant in this case could have sold that ice for $50 a ton, but he held the ice, because he was liable under a written contract between him and the United States to deliver this ice at any time. This suspension that was made was very artfully made, for the purpose of compelling the claimant to hold this ice and ultimately allow it to melt and become valueless. It is not true, as stated by the gentleman from New York, that the United States receded in the Supreme Court from their position, claiming that the assistant surgeon had no legal right or power to make a binding contract.

That is the reason why the Court of Claims decided against the claimant. But when it went to the Supreme Court of the United States, page after page of their opinion, nine-tenths of the opinion, is devoted to setting aside that decision and overruling the decision of the Court of Claims, and deciding that the assistant surgeon-general had full power to make a binding contract against the Goverment with the claimant. In addition to this, in these court reports appears the notice given to all people, inviting them to come in and make a contract for this ice. This ice was to be used in the hospitals for the soldiers at these four different cities of the Mississippi, around which neighborhood clustered so much military activity and where the necessity for it became imminent.

Carry yourselves back to 1863, when this contract was made, when the whole world had the right to come forward and make a contract at the invitation of the Government, and not at the request of the claimant. What does this bill do? Attempt to decide how much shall be awarded to this claimant? It does not say that a cent shall necessarily be awarded to the claimant, but it is referred to the War Department of the United States, giving them full power to adjudicate this question and determine the facts of the case and award to the claimant in accordance with the One hundred and eleventh United States Reports, laying down the proper rule for damages. Does the gentleman mean that anywhere it is the law as a measure of damages that the man shall get the full contract price and not deduct the things which he was not compelled to do? The gentleman knows that the rule of law is that he shall only be allowed the contract price less the expenses of delivering, which he was not compelled to pay in this instance.

Mr. PAYNE. Will the gentleman allow me to ask him a question?

Mr. GRAFF. Yes, sir.

Mr. PAYNE. Why did not you put that in the bill, instead of "deducting therefrom all payments which had been made?"

Mr. GRAFF. That is a part of the law of the land. These expenses are deducted, so that the proper measure of damages is laid down in the bill.

Mr. PAYNE. You failed to follow the law of contracts.

Mr. GRAFF. The One hundred and eleventh United States, the Rahan case, lays down another doctrine.

Mr. PAYNE. A doctrine in the case where the contract was annulled and not suspended.

Mr. GRAFF. Getting at the profit, they would not eliminate

the expenses of the delivery. Of course the claimant was not compelled to deliver the ice if the Government did not call upon him to bring the ice.

Ah, Mr. Speaker, there has been a general criticism of these bills. Forty-six bills were brought in by this committee, and the gentleman had an opportunity to object successfully by reason of the absence of a quorum. The gentleman had questioned the work of this committee and sent reports throughout the country that we were about to loot the Treasury, and he could not find with all of his investigations any reason for preventing the passage of 36 of them. [Applause.] Thirty-six out of forty-six! Looting the Treasury, forsooth! Why, the 46 bills do not aggregate $300,000; and I have seen the gentleman sit silent and see appropriations of half a million dollars for pumpkin shows for favored portions of the United States [applause] under the pretense of fostering our commerce [renewed applause], but really which were for the benefit of restaurateurs, cigar dealers, and other gentlemen who feed a transient population. [Laughter and applause.] Ah, looting the Treasury——

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. SHATTUC. I ask unanimous consent that the gentleman have five minutes more.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GRAFF. Division.

Mr. BARTLETT. May I inquire what is the motion?

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The question was taken; and there were—ayes 88, noes 62.

So the bill was ordered to a third reading, and it was accordingly read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. PAYNE. On that I ask for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 101, nays 98, present 9, not voting 144, as follows:

YEAS—101.

Adams,	Douglas,	Lindsay,	Schirm,
Adamson,	Dovener,	Livingston,	Shattuc,
Allen, Me.	Esch,	Loudenslager,	Shelden,
Ball, Del.	Feely,	Lovering,	Showalter,
Ball, Tex.	Flanagan,	McAndrews,	Sibley,
Bartholdt,	Foster, Ill.	McCulloch,	Skiles,
Bates,	Foster, Vt.	McLain,	Smith, Ill.
Blackburn,	Fowler,	Mahoney,	Smith, S. W.
Boreing,	Gaines, W. Va.	Mann,	Sperry,
Breazeale,	Gibson,	Mickey,	Stewart, N. J.
Bromwell,	Gooch,	Miller,	Storm,
Broussard,	Graff,	Mondell,	Sulloway,
Brown,	Graham,	Moody, Oreg.	Sulzer,
Brundidge,	Greene, Mass.	Morrell,	Tawney,
Burke, S. Dak.	Hanbury,	Moss,	Thomas, Iowa
Calderhead,	Hay,	Needham,	Thomas, N. C.
Conry,	Henry, Conn.	Olmsted,	Vreeland,
Cromer.	Howell,	Patterson, Pa.	Warner,
Crumpacker,	Joy,	Pearre,	Warnock,
Currier,	Kern,	Ransdell, La.	Weeks,
Cushman,	Kitchin, Claude	Reeves,	Williams, Miss.
Davey, La.	Kleberg,	Reid,	Wright,
Davidson,	Kyle,	Robb,	Young.
Deemer,	Landis,	Roberts,	
Dick,	Latimer,	Robertson, La.	
Dinsmore,	Lever,	Robinson, Ind.	

NAYS—98.

Alexander,	Draper,	Lester,	Ryan,
Allen, Ky.	Driscoll,	Lewis, Ga.	Shallenberger,
Aplin,	Elliott,	Littauer,	Sheppard,
Bankhead,	Emerson,	Lloyd,	Sims,
Bartlett,	Finley,	Loud,	Slayden,
Billmeyer,	Fitzgerald,	McClellan,	Small,
Bishop,	Fleming,	McDermott,	Smith, Ky.
Bowersock,	Flood,	McLachlan,	Snodgrass,
Bowie,	Gardner, N. J.	Maddox,	Spight,
Brantley,	Gillet, N. Y.	Martin,	Stark,
Burleson,	Griffith,	Mercer,	Stephens, Tex.
Burton,	Grosvenor,	Miers, Ind.	Sutherland,
Caldwell,	Heatwole,	Moon,	Talbert,
Candler,	Hill,	Mutchler,	Tate,
Cannon,	Hitt,	Overstreet,	Thayer,
Capron,	Holliday,	Padgett,	Thompson,
Cassingham,	Howard,	Palmer,	Trimble,
Clark,	Jones, Va.	Parker,	Vandiver,
Clayton,	Jones, Wash.	Payne,	Wanger,
Cochran,	Kehoe,	Perkins,	White,
Conner,	Ketcham,	Pugsley,	Wiley,
Cowherd,	Kluttz,	Randell, Tex.	Williams, Ill.
Creamer,	Knapp,	Reeder,	Zenor.
De Armond,	Lacey,	Richardson, Ala.	
Dougherty,	Lamb,	Russell,	

ANSWERED "PRESENT"—9.

Boutell,	Gillett, Mass.	Jackson, Kans.	Shackleford,
Brownlow,	Hamilton,	Otjen,	Van Voorhis.
Cooper, Wis.			

NOT VOTING—144.

Acheson,	Eddy,	Jett,	Rhea,
Babcock,	Edwards,	Johnson,	Richardson, Tenn.
Barney,	Evans,	Kahn,	Rixey,
Beidler,	Fletcher,	Kitchin, Wm. W.	Robinson, Nebr.
Bell,	Foerderer,	Knox,	Rucker,
Bellamy,	Fordney,	Lassiter,	Ruppert,
Belmont,	Foss,	Lawrence,	Scarborough,
Benton,	Fox,	Lessler,	Scott,
Bingham,	Gaines, Tenn.	Lewis, Pa.	Selby,
Blakeney,	Gardner, Mass.	Little.	Shafroth,
Brandegee,	Gardner, Mich.	Littlefield,	Sherman,
Brick,	Gilbert,	Long,	Smith, Iowa
Bristow,	Gill,	McCall,	Smith, H. C.
Bull,	Glass,	McCleary,	Smith, Wm. Alden
Burgess,	Glenn,	McRae,	Snook,
Burk, Pa.	Goldfogle,	Mahon,	Southard,
Burkett,	Gordon,	Marshall,	Southwick,
Burleigh,	Green, Pa.	Maynard,	Sparkman,
Burnett,	Griggs,	Metcalf,	Steele,
Butler, Mo.	Grow,	Meyer, La.	Stevens, Minn.
Butler, Pa.	Haskins,	Minor,	Stewart, N. Y.
Cassel,	Haugen,	Moody, N. C.	Swann,
Connell,	Hedge,	Morgan,	Swanson,
Coombs,	Hemenway,	Morris,	Tayler, Ohio
Cooney,	Henry, Miss.	Mudd,	Taylor, Ala.
Cooper, Tex.	Henry, Tex.	Naphen,	Tirrell,
Corliss,	Hepburn,	Neville,	Tompkins, N. Y.
Cousins,	Hildebrant,	Nevin,	Tompkins, Ohio
Crowley,	Hooker,	Newlands,	Underwood,
Curtis,	Hopkins,	Norton,	Wachter,
Dahle,	Hughes,	Patterson, Tenn.	Wadsworth,
Dalzell,	Hull,	Pierce,	Watson.
Darragh,	Irwin,	Pou,	Wheeler,
Davis, Fla.	Jack,	Powers, Me.	Wilson,
Dayton,	Jackson, Md.	Powers, Mass.	Woods,
Dwight,	Jenkins,	Prince,	Wooten.

So the bill was passed.

The following pairs were announced:

For the session:

Mr. BOUTELL with Mr. GRIGGS.

Mr. DAYTON with Mr. MEYER of Louisiana.

Mr. BROWNLOW with Mr. PIERCE.

Mr. SHERMAN with Mr. RUPPERT.

Mr. KAHN with Mr. BELMONT.

Until further notice:

Mr. VAN VOORHIS with Mr. GORDON.

Mr. LONG with Mr. NEWLANDS.

Mr. SOUTHARD with Mr. NORTON.

Mr. HASKINS with Mr. FOX.

Mr. MORRIS with Mr. GLASS.

Mr. METCALF with Mr. WHEELER.

Mr. HOPKINS with Mr. SWANSON.

For one week:

Mr. SCOTT with Mr. JACKSON of Kansas.

For the day:

Mr. WM. ALDEN SMITH with Mr. HENRY of Mississippi.

Mr. BABCOCK with Mr. UNDERWOOD.

Mr. BARNEY with Mr. BELLAMY.

Mr. BULL with Mr. CROWLEY.

Mr. HILDEBRANT with Mr. MAYNARD.

Mr. BURLEIGH with Mr. BURGESS.

Mr. BRISTOW with Mr. DAVIS.

Mr. BUTLER of Pennsylvania with Mr. GAINES of Tennessee.

Mr. STEELE with Mr. COOPER of Texas.

Mr. CORLISS with Mr. COONEY.

Mr. DALZELL with Mr. SHAFROTH.

Mr. DARRAGH with Mr. GLENN.

Mr. EVANS with Mr. GREEN of Pennsylvania.

Mr. GARDNER of Michigan with Mr. LASSITER.

Mr. HEDGE with Mr. GOLDFOGLE.

Mr. JENKINS with Mr. WILLIAM W. KITCHIN.

Mr. HEMENWAY with Mr. WILSON.

Mr. MUDD with Mr. NAPHEN.

Mr. HENRY C. SMITH with Mr. TAYLOR of Alabama.

Mr. PRINCE with Mr. NEVILLE.

Mr. SMITH of Iowa with Mr. RIXEY.

Mr. STEWART of New York with Mr. PATTERSON of Tennessee.

Mr. TIRRELL with Mr. ROBINSON of Nebraska.

Mr. WACHTER with Mr. RUCKER.

Mr. WOODS with Mr. SNOOK.

Mr. ACHESON with Mr. POU.

Mr. MOODY of North Carolina with Mr. SHACKLEFORD.

Mr. SOUTHWICK with Mr. WOOTEN.

Mr. CONNELL with Mr. BUTLER of Missouri.

Mr. GILL with Mr. EDWARDS.

Mr. JACK with Mr. SCARBOROUGH.

For the vote:

Mr. BRICK with Mr. BURNETT.

Mr. COOMBS with Mr. BENTON.

Mr. CURTIS with Mr. GILBERT.

Mr. HAUGEN with Mr. HOOKER.

Mr. HEPBURN with Mr. JOHNSON

Mr. WATSON with Mr. SWANN.

Mr. MCCALL with Mr. RICHARDSON of Tennessee.
Mr. MAHON with Mr. SPARKMAN.
Mr. OTJEN with Mr. MCRAE.
Mr. DWIGHT with Mr. LITTLE.
Mr. BINGHAM with Mr. RHEA.
Mr. MINOR with Mr. JETT.
Mr. COUSINS with Mr. HENRY of Texas.

The result of the vote was then announced as above recorded.

On motion of Mr. GRAFF, a motion to reconsider the vote whereby the bill was passed was laid on the table.

ELIZABETH MUHLEMAN ET AL.

The SPEAKER pro tempore (Mr. GROSVENOR). The Clerk will report the next bill.

The Clerk read as follows:

S. 2116. An act for the relief of Elizabeth Muhleman, widow, and heirs at law of Samuel A. Muhleman, deceased.

Mr. PAYNE. Mr. Speaker, I yield to the gentleman from Georgia [Mr. MADDOX].

Mr. MADDOX. Mr. Speaker, this is a bill appropriating $5,000 to pay Elizabeth Muhleman, widow, and heirs at law of Samuel A. Muhleman, deceased, out of any money in the Treasury, and so on. This claim is based on the Ford's Theater disaster. It is claimed here by the claimant, Mrs. Muhleman, and those who have testified before the committee, that his death was caused by an injury received in the Ford's Theater disaster; that it caused aneurism, of which he died about four years thereafter.

Congress in 1893, immediately after the Ford's Theater disaster, appointed a Commission to examine and try all these cases. I was appointed on that Commission, and am the only member in Congress now that was on that Commission. The Commission was appointed, and for something over four years it was engaged in the trial of every case for all injuries to parties, or those who received their death, and finally it cost the Government about $330,000 in order to pay off these claims.

Now, it seems from the evidence in this case, and from the report as we get it from the Committee on Claims, that this man, Muhleman, claims that he was injured on that day; that he was examined by physicians immediately thereafter, again in 1893, and continued up to 1898; that he even went out into the State of Indiana to be examined for disease of the heart in 1895. Now, gentlemen of the House of Representatives, if it is true that this man received the injury which caused his death by reason of this Ford's Theater disaster, he ought to recover the amount asked for in this case. If it is not true, then he ought not to recover.

Mr. TALBERT. Did this man come before your Commission?

Mr. MADDOX. He never did. I was going on to say that this Commission, consisting of five from the House and five from the Senate, held open court for four years, not only during sessions of Congress, but during the interim, and everybody was invited to come before it, and we tried over 250 cases on their merits. Not only that, but it was required in this Department where this disaster occurred for every man who claimed an injury not only to register his name there, but also to register the injury, or the character of the injury, he received by reason of this accident, if you can call it an accident, which it was not.

Now, I want to say to the House that notwithstanding all these facts—that this Commission stood open here for four years—notwithstanding that every one of these men who had suffered injury was required to register his injuries at the Department, this man made no appearance before this Commission and made no claim; and he never registered at the Department as having been injured, but, on the contrary, served in that Department up till the time of his death—a period of five years; and now, four years after his death, this claim is presented to the House of Representatives.

The reason I have been anxious that I might be heard on this case by members now present is that if this claim be allowed then there is a precedent under which the heirs or legal representatives of every man who was present in that building at the time of that disaster and who has since died, or may hereafter die, can come before Congress and claim that his death was caused by that disaster. That is exactly what is going to happen.

If the Claims Committee, as I understand from their report—I do not know what they had before them except so far as it is disclosed in the report—had taken the trouble to investigate the other side of this question, they might have learned more about it. In order to ascertain the facts, I wrote to General Ainsworth, in control of the Record and Pension Office of the War Department, a letter inquiring about this matter, stating that as I had been a member of the commission I felt it my duty to call the attention of the House to the facts. Now, I wish to read the letter of General Ainsworth in regard to this claim:

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington City, February 2, 1903.

Hon. JOHN W. MADDOX, *House of Representatives.*

SIR: In response to your letter of the 31st ultimo, in which you inquire how long Samuel A. Muhleman continued in the discharge of his duties as a clerk in this office after the Ford's Theater disaster, also whether he was in the service at the date of his death, and why, if he was injured in the disaster, he did not present his claim to the commission that investigated such claims, I have the honor to advise you as follows:

The records of this office show that Mr. Samuel A. Muhleman was on duty at the Ford's Theater building at the time of the accident there on June 9, 1893, but owing to the fact that he was located on the first floor, near the wall which acted as a protection to him, he escaped injury from the falling floors. The records also show that immediately after the accident he registered with others on the list of survivors. Those who were injured were required to make a statement to that effect on the list, but Mr. Muhleman registered without remark.

Mr. Muhleman was employed continuously as a clerk in this office from the time of the accident, June 9, 1893, to February 14, 1838, the date of his death. There is nothing of record to show that during that period he ever claimed to have suffered any ill effect from the accident of June 9, 1893.

This office is unable to state why, if he believed himself to have been injured in the accident, he did not submit his claim to the Congressional committee that was appointed to investigate such claims.

Very respectfully,

F. C. AINSWORTH,
Chief Record and Pension Office.

Now, gentlemen, this is a very remarkable case. If there is any virtue in it at all, is it not singular that this man, as appears in the report, was being examined immediately before this commission had been established by Congress, by these physicians upon whose evidence this report is based; that he should have visited the State of Indiana for the purpose of consulting an expert and yet that he did not present himself before the board of surgeons provided for by Congress—one from the Marine Corps, one from the Army, and one from the Navy; that he did not present himself before the commission that sat for years examining claims of this character; that he made no application before that Commission and no complaint of any injury having been received; and that no claim for any injury sustained by him is made until four years after his death? And now we are furnished with evidence purporting to show that he died by reason of an injury received in that Ford's Theater disaster.

Gentlemen, if we can reach back under these conditions or circumstances and connect alleged injuries of this person, what is to hinder the presentation of a similar claim in the case of every man who was present in that building at the time of this disaster and may hereafter die?

The SPEAKER pro tempore. The time of the gentleman from Georgia [Mr. MADDOX] has expired.

Mr. MADDOX. I ask unanimous consent for three minutes more.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. MADDOX] asks unanimous consent that his time may be extended.

Mr. FOSTER of Vermont objected.

The SPEAKER pro tempore. Objection is made.

Mr. MADDOX. Who made the objection? Nobody rose and objected.

Mr. FOSTER of Vermont (rising). Mr. Speaker, I object. It may seem ungracious for me to do so, but we have fixed this rule and we have many more of these cases remaining——

The SPEAKER pro tempore. Debate is not in order.

Mr. GRAFF. I yield to the gentleman from Iowa [Mr. THOMAS].

Mr. THOMAS of Iowa. I yield five minutes to the gentleman from West Virginia [Mr. DOVENER].

Mr. DOVENER. Mr. Speaker, I have heard with some surprise the very singular reasons given by the only surviving member of the Commission appointed to investigate the Ford's Theater disaster who is now a member of this House. He says that if it is true that this man received the injuries he ought to be paid. To that I agree. The only question, then, for this House to decide is whether as a matter of personal judgment and because he was in the employ of the Government and did not care to make a claim shall defeat this bill, or whether his death, which brought loss and disaster upon his wife and children, was caused by the disaster at Ford's Theater.

There is no question that there is evidence before this body to-day which, if it had been brought before that Commission, would have entitled him to receive something in addition to his salary. It is true that he was not injured physically, but there is no question that the fall and certain injuries that he received at that time produced heart disease. He did not have heart disease before, and he died from heart disease produced by the shock and the disaster at Ford's Theater in 1893. I want to correct one thing which the gentleman from Georgia [Mr. MADDOX] says, viz, that here, nearly five years after his death, there is a bill presented in Congress. I say that in that the gentleman is mistaken.

Mr. MADDOX. What is that?

Mr. DOVENER. The gentleman stated that nearly five years after his death a bill is presented for the first time.

Mr. MADDOX. I did not say that.

Mr. DOVENER. In that I say the gentleman is mistaken.

Mr. MADDOX. I did not say that.

Mr. DOVENER. I so understood the gentleman.

Mr. MADDOX. Well, the gentleman is mistaken. I said four years afterwards.

Mr. DOVENER. Well, you said more than four years afterwards. This bill was presented and passed the Senate of the Fifty-sixth Congress, and the Senate bill came to this side, and among other bills was not considered in the House. It also passed the Senate in this Congress and is now being considered by this House. The Senate passed the bill, not on supposition, but on the evidence of gentlemen who were sworn before the Senate committee. First, Thomas Hynes made an affidavit that he was intimately acquainted and associated with this man previous to the 9th of June, 1893; that he knew Muhleman to be physically sound and healthy; that Muhleman was injured in the collapse at Ford's Theater, and that immediately after that he commenced to complain of his heart.

Fred K. Swett, a physician of ten years' standing, made affidavit that in July and August of 1893 he was consulted by Muhleman with regard to a difficulty in breathing and peculiar sensation in his head; that he found him suffering with this disease of the heart. James T. Hensey, Muhleman's physician, who had known him for eleven years, swore that before this disaster there was no disease of the heart from which he suffered, but that immediately after this he was called in to attend him and found he was suffering from certain bruises and injuries received on the outside, of slight character, but that his heart was troubled, and that from that time on the trouble continued to increase up to the time of his death, and was the cause of his death. Dr. Riggs, a practicing physician here in this city, made oath to the same facts; that he knew him before and afterwards; that the nervous shock and injuries received at the time of the disaster were the cause of his death. Dr. Johnstone also made the same affidavit. Dr. Kennard made the same affidavit, and Dr. E. A. Wearman, a specialist in Indianapolis, where Muhleman had gone to see if he could not get some relief, testified to the same facts and that it was the cause of his death.

Now, the only question here, according to the statement of the gentleman from Georgia [Mr. MADDOX], is whether he contracted that trouble by reason of that disaster in Ford's Theater. If this trouble continued and was the cause of his death, the claimants ought to have the amount of $5,000, which was allowed in the case of others whose death was caused by the disaster. I think we ought to take into consideration also the fact that he was patriotic enough, when he was earning his living from the Government, not to make the claim. He thought all the time that he possibly might recover. Of course after he was dead he could not make the claim, and the loss falls upon his widow and children, who have been deprived of their support and his companionship, and all because of this disaster at Ford's Theater. Of these things there is not a contradiction, unless it be that implied in the fact that he did not make a claim. I ask the members of this House to be fair and listen to the evidence which is adduced in this case. I am content, then, to take the judgment of the House. Mr. Speaker, I ask that this report be read.

The Clerk read as follows:

The Committee on Claims, to whom was referred the bill (S. 2216) entitled "A bill for the relief of Elizabeth Muhleman, widow, and the heirs at law of Samuel A. Muhleman, deceased," beg leave to submit the following report, and recommend that said bill do pass without amendment:

This is a bill that has already passed the Senate.

The facts on which the bill is founded are fully set forth in Senate Report No. 473, made by the Senate Committee on Claims during the present Congress, in which report your committee concur and adopt the same as its report.

The Senate report is as follows:

"The Committee on Claims, to whom was referred the bill (S. 2216) for the relief of Elizabeth Muhleman, widow, and the heirs at law of Samuel A. Muhleman, deceased, having considered the same, beg to report as follows:

"A bill similar to this one was introduced at the last session and favorably reported from this committee. The bill was not reached on the Calendar. Your committee concur in the views expressed in the report made at the last session, adopt it as a part hereof, and recommend the passage of the bill.

"The report is as follows:

[Senate Report No. 1582, Fifty-sixth Congress, first session.]

"The Committee on Claims, to whom was referred Senate bill 1658, have had the same under consideration and make the following report:

"This claim arises out of what is known as the Ford's Theater disaster, and in which class of cases the sum of $5,000 was fixed as compensation in case of death by the commission and paid by the Government in a number of cases in which death resulted from injuries received in that disaster. Samuel A. Muhleman, deceased, the husband and father of the claimants, was a clerk in the employ of the Government and at his desk performing his clerical duties at the time of the disaster at Ford's Theater, and up to that time was a sound and healthy man physically. Other clerks occupying desks adjacent to that occupied at the time by Mr. Muhleman were killed, but Mr. Muhleman, through utmost physical exertion, saved himself, but came out of the débris frightened, bruised, sore, and with splinters in his flesh. The great physical exertion which he made at the time to save his life and the shock to his nervous system produced aneurism of the heart, which constantly progressed in severity from that time until February 14, 1898, when he died from aneurism incurred in the disaster mentioned, leaving surviving him a widow and four small children.

"Mr. Muhleman made no claim before the Commission for compensation for injuries received in the disaster for the reason that he was able to discharge his clerical duties, but he continuously suffered from extreme nervousness and from the increasing severity of the heart trouble thus produced from the time of the disaster until the time of his death, and was under the treatment of various physicians from July or August, 1893, up to the time of his death for the aneurism occasioned as stated. The evidence submitted in the claim clearly establishes the fact that prior to the Ford's Theater disaster Mr. Muhleman was a sound and healthy man physically; that aneurism of the heart was caused by the shock to his nervous system and the injuries which he received in the disaster, and that such aneurism continuously increased in severity from that time to the time of his death, and that he died from the effects of the injuries received in the disaster. The claim is a meritorious one, and your committee therefore report the bill back and recommend that it do pass.

"An abstract of the evidence in this claim is appended hereto as a part of this report."

Thomas Hynes makes affidavit that he was intimately acquainted with Samuel A. Muhleman and was employed in the same office with him for the past fifteen years; that previous to June 9, 1893, he knew Mr. Muhleman to be physically sound and healthy; that on that date Mr. Muhleman was involved in the collapse of Ford's old Theater building; that after that disaster he constantly complained of great nervousness and heart disease consequent upon the great exertion he was compelled to make to save himself from being crushed to death in the falling walls and débris of the wrecked building; that this nervous condition and heart disease constantly increased from the 9th day of June, 1893, until the day of his death, and that the cause of Mr. Muhleman's disease and his death is directly chargeable to the disaster at Ford's old theater building June 9, 1893.

Fred K. Swett, a physician of ten years' standing, makes affidavit that in July or August, 1893, Mr. Muhleman consulted him for a difficulty in breathing and a peculiar sensation in the head which he stated appeared very soon after the disaster at Ford's Theater in June of that year; that upon examination he found an irritable heart, and occasionally a slight murmur could be distinguished, rhythm and action were irregular, and dyspnœa was pronounced on slight exertion; that the head trouble he attributed to the cardiac lesion; that from October, 1893, to the spring of 1894 he saw Mr. Muhleman almost daily, and during all that period he suffered from heart trouble, and that on several occasions he was obliged to prescribe and administer remedies to give him temporary relief from his suffering, and that the heart lesion continued to the day of his death, and was the cause of his death.

James T. Hensey, M. D., makes affidavit that he was intimately acquainted with Mr. Muhleman from the year 1882, and was closely associated with him, both in business relations and as a medical man from that date; that previous to June 9, 1893, Mr. Muhleman was a sound and healthy man physically; that upon that date he was in the Ford's old theater building with Mr. Muhleman, and that it is personally known to him that Mr. Muhleman's peril was so imminent that it required the utmost physical exertion to save himself; that from that day until the day of his death he complained of extreme and ever-increasing nervousness and of heart trouble; that he was present two years afterwards at a physical examination made by Dr. R. B. Johnstone, which conclusively showed heart disease, rapidly progressive in character, and that the death of Mr. Muhleman is directly traceable to the injuries he received at the disaster at Ford's Theater building on June 9, 1893.

D. H. Riggs, a practicing physician, makes affidavit that he had known Mr. Muhleman for ten or twelve years and that he was a perfectly well man until after the shock he received in the disaster at the old Ford's Theater; that during the ensuing year after the disaster he made an examination of Mr. Muhleman and diagnosed his case as thoracic aneurism, and that such trouble undoubtedly caused his death.

R. B. Johnstone, M. D., makes affidavit that he made several examinations of Mr. S. A. Muhleman, some of which were conjointly with Dr. G. Howard Kennard; that at every examination he found every evidence of a dislocation of the heart, the apex beat being thrown over to the right side between the third and fourth ribs. This dislocation was due to a probable aneurism, which, from the history of the case, dates from the accident at the falling of the old Ford's Theater; that the extension of the dislocation of the heart was gradual and progressive, and was certainly resultant from the shock received at the time of said accident, and that it was the cause of death.

G. Howard Kennard, M. D., makes affidavit that since April, 1895, he made a number of examinations of the physical condition of Mr. Muhleman, the last being a few days before his death; that he found a misplaced heart, the apex beat being to the right side, about the fourth rib; that he also found evidence of an aneurism of gradual development, and which undoubtedly caused his death, and that this condition, which resulted in his death, was undoubtedly due to the excessive muscular and nervous strain suffered at the time of the collapse of the Record and Pension building, on Tenth street NW.

Dr. E. A. Wehrman, of Indianapolis, Ind., makes affidavit that in 1895 Mr. Muhleman wrote him that he was and had been feeling badly for a long time, and was coming out to have him make an examination of his condition; that in August, 1895, he, together with Dr. L. W. Jordan, at the request of Mr. Muhleman, made an examination at Indianapolis, and they found a well-developed aneurism of the aorta; that he knew Mr. Muhleman from boyhood up, and that he was a strong, healthy man of fine physique, and he believes that nothing was the matter with him before the Ford's Theater disaster that would predispose aneurism; that from his examination of him and the description given of the Ford's Theater disaster, the excitement and nervous shock which that disaster produced on Mr. Muhleman was the starting of his aneurism, which proved fatal February 14, 1898.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The question was taken; and on a division (demanded by Mr. GRAFF) there were—ayes 20, noes 35.

Mr. DOVENER. Mr. Speaker, I demand the yeas and nays.

The SPEAKER pro tempore. The gentleman from West Virginia demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until they are counted.

Mr. DOVENER. I raise the point of no quorum. I withdraw the demand for the yeas and nays.

The SPEAKER pro tempore. The Chair will announce that the yeas and nays are refused, and the gentleman from West Virginia makes the point of no quorum. When on a division less than a quorum votes and then tellers or the yeas and nays are refused, it is too late to make the point of no quorum.

Mr. DOVENER. I withdrew the demand for the yeas and nays and made the other point.

The SPEAKER pro tempore. The Chair had counted and announced the result. Only six gentlemen rose and that was not

enough. The Chair overrules the point of the gentleman from West Virginia. The noes have it and the bill is defeated. The Clerk will present the next bill.

L. A. NOYES.

The next business was the bill (S. 3546) for the relief of L. A. Noyes.

Mr. PAYNE. Mr. Speaker, this is a bill to pay L. A. Noyes the sum of $1,819 for services rendered as acting assistant Treasury agent at the island of St. George, Alaska, from August 1, 1886, to May 30, 1887, inclusive.

The Treasury has a special agent and three subagents at the Pribilof Islands, looking after the Government seal interests there. During the winter they keep two men there and two come back to the States. On this occasion Mr. George R. Tingle was the special Treasury agent in charge, and his assistants were T. F. Ryan, A. P. Loud, and J. P. Manchester. Mr. Tingle and Mr. Ryan had spent the previous winter on the islands, and, in accordance with the custom of the Treasury Department, were entitled to go down and spend the winter in the States, leaving Mr. Loud and Mr. Manchester there. Captain Loud relieved Tingle at St. Paul Island, and Mr. Manchester was expected to relieve Mr. Ryan at St. George, but Manchester claims that he had a verbal understanding with the Secretary of the Treasury that he, too, was to come down; in other words, that he had an understanding with the Secretary that but one agent should be left there.

Mr. Manchester wanted to come, and Mr. Tingle very obligingly assumed to create another office and to appoint a man to fill the place, and so he appointed Dr. Noyes, who was employed at the time by the Alaska Fur Seal Company as its physician, leaving Dr. Noyes there in the dual capacity of serving the Fur Seal Company as its physician and also serving the United States as special Treasury agent at the island. I do not say this is any reflection upon Dr. Noyes, or that he did not do his full duty as well as a man could, acting in the dual capacity.

Now, Mr. Tingle claims that there was a precedent for this; that in 1870 Captain Bryant, Treasury agent in charge, appointed Mr. Falconer to fill a vacancy, and that the Secretary of the Treasury subsequently ratified the appointment and permitted Mr. Falconer to be paid without objection. Well, there was a vacancy at that time, an actual vacancy, and Captain Bryant did not have to create a new office and to create another Treasury agent, as was done in this case under this bill; but he assumed to appoint a man to fill a vacancy and the man stayed there, and when he had reported what he had done to the Secretary of the Treasury, the Secretary of the Treasury approved the appointment, and so paid the man his $6 per day. These agents are all paid the sum of $6 per day the year around, Sundays included, whether they are in the islands or whether they are in the States. The special agent and his three assistants are each paid the same amount.

The gentleman from Vermont [Mr. FOSTER] mistakenly stated the other day that Captain Manchester did not draw his pay for this time, but I am informed that he did draw his full pay and that there was no vacancy. So that it amounted to this, that Mr. Tingle legislated a vacancy, made an office, and filled the office by the appointment of Dr. Noyes, who was there as the doctor of the Fur Seal Company, and Noyes stayed there during the winter, and now he comes to the Treasury Department for pay for performing the duties of an office which has never been created by law. That is the simple bald statement of the case. If anybody owes him anything, it is Tingle or Manchester. It is the man who was relieved from duty and was allowed to come to his home and spend his winter and still receive his full pay, and I do not think Congress ought to recognize any such claim as this. That is all there is in the claim; that is the whole matter.

I reserve the balance of my time.

Mr. GRAFF. Mr. Speaker, I yield to the gentleman from Vermont [Mr. FOSTER].

Mr. FOSTER of Vermont. Mr. Speaker, if I should employ an agent to look after my affairs, and should employ an assistant for him, to do a certain line of work, and when the time came for that assistant to do that work, he should tell my agent that he had a verbal understanding with me that he did not need to do it, and my agent, acting in good faith and believing that he had the authority, should employ a man to do that work for me, and he did it properly, it being necessary work and I got the benefit of it, the courts of Vermont would find some way of making me pay for it.

I can not vouch for the courts of New York, and if I should undertake to defend upon the ground that I had unjustly and improperly paid that assistant for doing the work that he did not do, I would stand, I believe, in almost as unenviable a position as the gentleman from New York occupies when he asks the United States Government to refuse to pay this bill, which the United States Treasury says ought to be paid, for services that were necessary to the Government, for services that were meritoriously rendered by Mr. Noyes at the request of the agent of the United States Government, who claimed authority to appoint him and did appoint him, because, forsooth, the United States Government improperly and unjustly paid Mr. Manchester for doing the work that he never performed.

Now, that is the plain situation in this case. Mr. Noyes was not on St. George Island. He was a resident at the time, temporarily, of St. Paul Island. The United States Government, through its agent, when it was found that Mr. Manchester had an understanding that he might return home, requested Mr. Noyes to go from the place where he was—St. Paul Island—to St. George Island and remain there during the winter to look after the property of the United States Government and do the other work which was necessary to be done and for which Mr. Manchester was appointed. He went there and performed that work. The gentleman from New York has no right to claim that he was on St. George Island during these months in any other capacity than as an agent of the United States Government. The officials of the Treasury Department say in their report that they find reluctantly that the law prevents their paying this bill for services that were necessary, for services that were meritorious and properly rendered.

Now, under these circumstances, Mr. Speaker, I ask the members of this House to say to the United States Treasury Department that this honest bill for services rendered—necessary services rendered—by a man who was appointed by an agent of the Government, who took his oath of office, who supposed he had authority to render the services, and who supposed that after he had rendered the services the United States Government would pay him therefor, shall be paid.

Mr. PAYNE. Just one word, if the gentleman has concluded.

Mr. FOSTER of Vermont. Then I reserve the balance of my time.

Mr. PAYNE. I only want to call attention to the unenviable position the gentleman from Vermont has taken. If I am employed by the Government, if I declare I want to go home and go home for six months and ask somebody else here to be my deputy and go through the form of making an appointment for a vacancy which did not exist, shall the Government, not only after they have paid me to do the work and sent me there to do it, be called upon to pay the other man, too?

Mr. GRAFF. Does the gentleman believe that has anything to do with this case? The fact that an official of the Government had gone off, when he should not have gone off, when another citizen is called upon to perform the duty, and did perform that duty, and the Treasury Department recommends that he should be paid for it, ought he not to be paid? That is so plain and bald a proposition that I think the gentleman might accept it.

Mr. PAYNE. Well, Mr. Speaker, it is not so plain and so bald that I can see it.

Mr. GRAFF. I think the gentleman ought to understand it.

Mr. FOSTER of Vermont. I do say that Mr. Manchester ought to have stayed there and performed his work, but when he went to Mr. Tingle, who was in charge, and said he had an arrangement with the Secretary of the Treasury of the United States by which he was entitled to return home and he was going to return home, and when Mr. Tingle by his instructions was commanded to leave some one in charge of that island, it became the duty of Mr. Tingle if he could find a man to find him and send him to St. Paul Island to discharge the duties which Mr. Manchester ran away from.

Mr. GRAFF. Will the gentleman permit me to ask him a question?

Mr. FOSTER of Vermont. Yes.

Mr. GRAFF. After the claimant entered upon his duty, did the Treasury Department recognize him in the performance of that duty?

Mr. FOSTER of Vermont. Yes; just as far as it could.

Mr. GRAFF. I mean in relation to the performance of his duty.

Mr. FOSTER of Vermont. Yes; and they say in their report that they find, reluctantly, owing to a technicality of the law, that they can not pay for these services, which they say "were both necessary and meritorious," and for which Mr. Noyes "is entitled to relief by Congress."

The SPEAKER pro tempore (Mr. GROSVENOR). The question is on ordering the bill to a third reading.

The question was taken; and the bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question now is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. PAYNE) there were 39 ayes and 19 noes.

So the bill was passed.

On motion of Mr. FOSTER, of Vermont, a motion to reconsider the last vote was laid on the table.

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

A message from the President of the United States, by Mr. BARNES, one of his secretaries, announced that the President had approved and signed bills of the following titles:

On February 2, 1903:

H. R. 10300. An act conferring jurisdiction upon the circuit and district courts for the district of South Dakota in certain cases, and for other purposes; and

H. J. Res. 216. Joint resolution extending the provision granting to the State of Pennsylvania the use of the court-houses at Scranton and Williamsport, Pa.

On February 3, 1903:

H. R. 1592. An act for the relief of F. M. Vowells; and

H. R. 15711. An act to authorize the construction of a bridge across the Clinch River, in the State of Tennessee, by the Knoxville, Lafayette and Jellico Railroad Company.

CHARLES R. HOOPER.

The SPEAKER pro tempore. The Clerk will report the next bill.

The Clerk read as follows:

The bill (H. R. 2637) for the relief of Charles R. Hooper.

Mr. CANNON. Mr. Speaker, this is a bill that I objected to in the committee, and I think it is my duty to object to it now.

The SPEAKER pro tempore. The Chair will call the attention of the gentleman from Illinois to the fact, of which the Chair was not advised, that this bill has been engrossed and read a third time, so that the real question is on the passage of the bill.

Mr. CANNON. If I can have the attention of the House for about three or five minutes at the outside, I can say all that I want to.

Charles R. Hooper, a mechanic employed in the navy-yard here at Washington, some 27 years old, while at work met with this accident. It is perhaps stated briefly by the helper, and I will read it from the report:

This is to certify that I am at present employed in the forge shop in the navy-yard at Washington, D. C., and have been for nine years. I have known Mr. Charles R. Hooper for the last nine years. Mr. Hooper was a blacksmith in the forge shop in the navy-yard at Washington, D. C. I was Mr. Hooper's helper for about two years, from 1893 to 1894. On the 1st day of August, 1894, about 1.36 p. m., Mr. Hooper was putting an iron band on a wooden body. I was striking for Mr. Hooper with a sledge hammer on the tool with which he was holding on the band, when my sledge hammer fell sideways, striking the tool and cutting a piece of steel out of it, which flew into Mr. Hooper's left eye. Mr. Hooper dropped everything, walked over to his anvil, and said his eye was gone. I saw the blood drop on the anvil.

Mr. Hooper is a sober and industrious young man, capable of filling any position in his line of business previous to the loss of his eye.

Respectfully,

JOHN H. SWAIN.

Now, I have no doubt that that statement is literally correct. I have no doubt that Mr. Hooper is a most deserving man. I am satisfied from the report that while he has not lost his sight, I am not sure but that he has lost the sight of this eye. I believe it was taken out and a sympathetic affection of the other eye renders it liable to make him blind. It has not done so up to this time. Now, that is the whole case. There is no statement in the report as to the circumstances of Mr. Hooper; whether he had an accident policy, how much property he has, how much property his friends have, whether he belongs to the Odd Fellows or any other organization from which he receives assistance. I do not know about that. All of us have sympathy with a man who loses his eye, and especially a worthy man, whether he be in the employ of the Government or is a taxpaying citizen dependent upon his own hustling for employment from other citizens.

Now, so far as the Government being legally liable here, it will not be claimed for a moment. If the employer had been a citizen instead of the Government, and this man was the employed, there can be no pretense that the employer would be liable. There can be no pretense that the Government is liable. Now, it is said here in this report that there was some showing before the committee to the effect that the striker was negligent. I do not know whether he was or not; I have read to you the account of the helper who made the strike. Nor does it matter whether he was negligent or not, the Government is not liable. It is a mere question of sympathy. We have the power to appropriate $5,000 for this man. We have the power, if lightning were to strike any worthy citizen, or unworthy citizen either, and kill him or blind him, we have the power to appropriate $5,000 or any other sum as a gift to that citizen or his legal representatives. The only limitation on our power is our sense of duty in the premises and the restraining influence of a wise and just public sentiment.

Now our citizens are all worthy, some of them employed by the Government at good wages, but the great mass of them employed otherwise than by the Government, and they are taxpayers. I think very likely that if many of the cases throughout the length and breadth of the United States, where people who are working for the Government meet with accidents could come here and sit in the House, with friends calling attention to it and to their condition, constantly in our sight, with tears of appeal, very likely we would have our sympathies aroused from time to time. That is human; but after all is said and done, there is in round numbers three or four hundred thousand people working for the Government. If we, every time that one is subjected to an accident, with or without the carelessness of a coemployee, would vote to them money from the Treasury, that would not be good policy, and if it is good policy then let us pass a general law. If a general law was proposed here there is not a man that would vote for it, not one.

Mr. WILLIAMS of Mississippi. Will the gentleman from Illinois allow me?

Mr. CANNON. Certainly.

Mr. WILLIAMS of Mississippi. I would like to ask the gentleman whether, in his opinion, if this man had been working for a corporation under exactly similar circumstances, and under the facts in this case, the corporation would have been liable in a suit at law?

Mr. CANNON. In my judgment, there would not be the slightest liability. I am reenforced in that opinion by conversation with some of the best lawyers in the House, some of whom have been upon the bench, nisi prius and appellate, and they say that there can be no pretense of liability on the part of the Government.

Mr. SIMS. Will the gentleman allow me a question?

Mr. CANNON. Certainly.

Mr. SIMS. The gentleman has stated that the Government is a large employer of labor. Is it not a fact that in view of the great undertakings in which the Government is engaging—the building of canals, etc.—it will soon be a much larger employer of labor than it has been?

Mr. CANNON. Oh, yes; and this labor for the Government is labor that is sought for as a matter of favor. It is no discredit, of course, for anyone to seek and receive this labor. Persons have a right to seek for it. But I submit that until the Government makes a departure that none of us are willing to indorse, until we adopt the principle that we will pay damages where accidents occur, or that we will give pensions to persons engaged in the civil service of the Government, we can not defend legislation of this kind.

Mr. CRUMPACKER. Will the gentleman allow me a single suggestion? The preamble of this bill, in the second clause, recites that this injury occurred while Mr. Hooper was engaged in the forge shop; that he was by an accident struck in the left eye with a piece of steel, resulting in the entire loss of the eye. Now, there is no pretense of building up or basing this claim on any alleged responsibility of the Government. On the face of the case as stated in the bill, it is shown that this was an accident pure and simple—nothing but an accident.

Mr. CANNON. Precisely. If I should consult the promptings of my heart, I would contribute to this man's relief, if his case should be brought to my attention, and if he should be willing to receive the contribution. I apprehend he would not do so. I have no doubt that he is an American citizen who deserves well. Whether he needs relief or not I do not know. But gentlemen here understand that our whole civilization is builded upon the self-reliance of the citizen, or, in case of personal distress or disaster, upon the assistance of friends, or the provision by life insurance companies, benevolent societies, etc., where the party suffering has not property upon which to rely; or locally, in cases of extreme poverty and suffering, upon relief from the local government.

[Here the hammer fell.]

Mr. MILLER. Mr. Speaker, I hope that I shall have the attention of this House while I present this matter fairly. So far as concerns the statements that have been made by the gentleman from Illinois, he fairly states the case as it appears in the report of this committee. I am frank to say that the committee report is not as full and complete as it ought to be. The facts are that this man was a skilled mechanic in the employ of the Government in one of our navy-yards; that he was at the time of this accident in the act of using old machinery—machinery such as has long ago gone out of use—machinery no longer used by the Government of the United States or by corporations in doing this kind of work; but while his coemployee was striking and this claimant was holding the band in place with the old machinery, about which he and his fellow-workmen had time and again complained, but which had never been replaced by new machinery, which would have held the band in place without the man holding it at all, thus removing him from any danger whatever—while this man was performing this kind of duty in the employ of the Government, his coemployee gave a stroke with a hammer sidewise, and in doing so let the hammer fall on the machine that the

claimant was holding, thereby knocking off a piece of steel, which flew into the eye of the claimant, from the effects of which he lost his eye.

Now, the testimony that appears in this report is the testimony of the claimant and his coemployee.

Mr. BOWIE. Will the gentleman allow me this question: On the facts just stated, if this were a suit at law against a private corporation, would not the claimant be regarded as guilty of contributory negligence in continuing in that employment after he had discovered the condition of the machinery to be such as now appears on the facts stated?

Mr. MILLER. I can only say in reply that possibly under a very rigid rule this might not be a case where the sufferer could recover, but I do not think that contributory negligence would ever be pleaded by any lawyer in any court in a case of this kind. I do not believe the time has come when a man in the employ of the Government of the United States, or any corporation, is to become a spy upon his coemployees and watch every blow that they strike and every act that they perform, so as to determine whether or not he shall have a case against the Government or the corporation in case of injury. I do not think the time has yet arrived when any lawyer in this country, pleading a case of this kind, would for a single moment argue that there was contributory negligence on the part of the claimant.

Now, as I have said, the testimony in this case is the testimony of these two persons; but, as appears in this report, these two employees of the Government appeared before this subcommittee and were carefully examined, and they both showed by their testimony that this accident occurred through the carelessness and negligence of the coemployee of the claimant, and without any fault or negligence whatever on the part of the man who is making this claim.

In addition to that we had the testimony of expert physicians in the case, who appeared before the committee and testified that in their judgment not only was the one eye entirely gone, but that on account of sympathetic action the claimant must lose the sight of the other eye.

I put this question before the committee on two grounds: First, that it is the duty of the Government of the United States in a case of this kind to care for the claimant, and also upon the broad ground of humanity, that it is the duty of the Government of the United States, rather than a private or public charitable institution or any lodge or Masonic fraternity to which the man may have belonged, to take care of him and his family under the present circumstances.

The testimony before the committee shows that this man has spent every dollar of the money which he had in this world trying to save the sight of the other eye, and to-day he and his wife and three children are penniless and are the subject of charity in the city of Washington. Shall the Government of the United States take care of these people or shall the Masonic fraternity be asked to take care of them for the rest of their lives? Here is a young man 27 years of age, in the bloom of young manhood, with every prospect of many years before him, years full of hope in which to earn a living for himself and his family, but the light of day has been shut out from him, or soon will be, forever. I ask the members of this House at this time to bring, as they come to this question with their votes, one ray of sunshine into the life of this poor man, so that he may feel that the Government of the United States is willing to do something for those who lose their sight in its service.

This House at a recent session passed a bill making an appropriation of $2,500 for a man who fell down an elevator shaft in the Treasury Department. The testimony in that case shows that he walked right into the doors of the elevator shaft, looking neither to the right nor to the left. He fell and broke his leg, and for the loss of that leg he was given by this House $2,500. I ask you not to strike at the blind. If you will strike, strike at men who have the sight to see. I ask you, while you are passing appropriations here for the payment of hundreds of thousands of dollars to corporations and men who have lost something, they claim, at the hands of the Government, or because of their own negligence, to give to this man what he asks in order that he may be able to get some of the happiness which ought to come to him in life. [Applause.]

Mr. Speaker, I reserve the balance of my time.

Mr. GRAFF. Mr. Speaker, I yield to the gentleman from Maryland [Mr. PEARRE].

Mr. PEARRE. Mr. Speaker, how much more time is remaining?

The SPEAKER pro tempore. The gentleman has four minutes remaining.

Mr. PEARRE. Mr. Speaker, at the request of the claimant, I introduced this bill. He lives now, I believe, in Washington, and some of his people live in the Sixth district of Maryland, which I have the honor to represent. I have heard several arguments made against this bill and against bills of a like nature in the House this morning, which strike me as having no real foundation or basis. I do not understand, Mr. Speaker, that it is necessary that a claimant against the United States Government should be able to establish his claim under the law. I do not think that it is the necessary basis for appropriation by the Government in cases of this sort that the man should have a claim which he could have enforced at law, either against the Government or against a corporation, if the claim had been against a corporation instead of the Government.

There are hundreds of appropriations made, some of which have already been referred to, where there was no legal claim against the Government at all. Indeed, most of these claims are equitable in their character and in no sense legal. I remember about a year ago, or perhaps two years ago, there was contained in one of the appropriation bills, or in a separate bill, I am not clear which, an appropriation for the family of a man named Willett, who fell down the elevator shaft in the Post-Office Department. There was a suspicion at that time that that was not even an accident, but was a suicide. Yet one of the appropriation committees of this House recommended the appropriation and the appropriation passed the House. That family certainly had no legal claim against the United States Government. So was it with the case which was referred to by the gentleman from Kansas [Mr. MILLER], which occurred in the Treasury Department, where another man fell down an elevator shaft and broke his leg.

Why, we invariably allow to the families of members of Congress the amount of salary remaining after the death of the Congressman during his term. There is no legal claim against the Government for that; there is not even a quantum meruit, because the Congressman is dead and not able to give the service to the Government for which the remaining amount of his salary would be paid. Yet it is given. I do not know whether it is given in charity or mercy or what not, but the families of Congressmen always get it. So it was, Mr. Speaker, in the case of General Ainsworth. The gentleman from Illinois [Mr. CANNON] will doubtless remember that some money was appropriated—I think in the sundry civil bill—to compensate General Ainsworth for certain expenses to which he had been put in defending a suit arising out of the Ford Theater disaster. Was there any legal claim there? There was not even an equitable claim in the minds of many people, and yet that claim was favorably recommended and passed by the House.

The SPEAKER pro tempore. The time of the gentleman has expired. The question is on the passage of the bill.

The question being taken, the Speaker pro tempore announced that he was in doubt.

Mr. MILLER. Mr. Speaker, I ask for a division.

The House divided; and there were—ayes 52, noes 38.

Accordingly the bill was passed.

On motion of Mr. MILLER, a motion to reconsider the last vote was laid on the table.

HEIRS OF PETER JOHNSON.

The next business was the bill (H. R. 6830) authorizing and directing the Secretary of the Treasury to pay to the heirs of Peter Johnson certain money due him for carrying the mail, reported from the Committee of the Whole, with an amendment.

Mr. GRAFF. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. CLAUDE KITCHIN]. I will say to the gentleman from North Carolina that he may wait until the gentleman from New York [Mr. PAYNE] has stated his objections to the bill, if he has any.

Mr. CLAUDE KITCHIN. I want to say to the gentleman from New York that I would like to have this bill passed over for a few minutes, until I can get some reports that I have sent for.

The SPEAKER pro tempore. If there be no objection, the bill will be informally passed.

Mr. PAYNE. I should rather go on with it now.

The SPEAKER pro tempore. The gentleman objects.

Mr. CLAUDE KITCHIN. I would like to have the gentleman from New York let it go over for a few minutes, and take up another just like it.

Mr. PAYNE. I would rather they would come up in this order. There are three of these claims.

Mr. CLAUDE KITCHIN. Let me say to the gentleman from New York again that I wish he would let this bill go over for a few minutes.

Mr. PAYNE. Well, I said to the gentleman that there are three of these bills for carrying the mail, and I want them to come up in the order in which they are on the Calendar. I want this one to come up first.

Mr. CLAUDE KITCHIN. The reason is, I have sent for the reports.

Mr. PAYNE. I have no objection to the gentleman sending for the reports.

Mr. CLAUDE KITCHIN. And they have not come in yet.

Mr. PAYNE. If the gentleman will ask that the next three cases go over for the present, I will not object to that.

Mr. CLAUDE KITCHIN. I will not ask that.

Mr. PAYNE. Very well, then, we will go on.

Mr. Speaker, this is a bill for carrying the mail in the State of Texas between the 1st day of July, 1858, and June 30, 1862, as it reads in the bill. I think, however, that it does not include any services except from December 30, 1860, to May 31, 1861.

This matter of claims for carrying the mails came into the Forty-fourth and Forty-fifth Congresses, and in the Forty-fifth Congress the whole thing broke down of its own weight. They were coming in here asking the United States to pay them for carrying the mail from the 1st day of January, 1861, to the 31st day of May, 1861. The Government made a proclamation in May that they would cease to carry out any contracts for carrying the mails in the seceding States on the 31st of May.

The Confederate Government also made a proclamation in May that they would assume all contracts on the 1st of June. Then they came into the Forty-fifth Congress and asked an appropriation for about $400,000 to pay for carrying the mails during those four months, and Congress voted that appropriation. Then they came in with a resolution to amend that appropriation in order to compel the Treasury Department to pay those claims, which the Treasury Department had not done, and, by the way, the first order was that the carrying of mail should be paid for up to the time that the States actually seceded, not to the 31st of May.

They sought to amend it by making it the 31st day of May, and then they tried to strike the provision that deducted all sums that had been paid by the Confederate government. Well, that thing was debated here for two days. No one knew much about it in the House, and finally Mr. Willets, of Michigan, discovered that the Confederate government had taken into its possession on the 1st day of June all the property of the United States relating to the carrying of the mails, mail bags, money in the post-offices, money due from postmasters, property of every description, save only the postage stamps. That appeared in that debate.

Mr. GRAFF. Will the gentleman yield?

Mr. PAYNE. No; I can not yield. After that appeared, Mr. Reagan, who had introduced the resolution, saw the mistake that he had made, saw the lapse in his memory, because he had denied that the Government had made any such payment, and the whole thing broke down and the Committee of the Whole voted to strike out the enacting clause in the bill. They brought it back into the House, and after some begging the resolution was referred back to the Committee on the Post-Office and Post-Roads, and has been there ever since that day. There have been a few of these claims paid. They have come here to the Department—perhaps, a half a dozen of them—claims, I suppose, that have got through Congress at some time without people noticing what they were.

There are claims still unpaid; but it appears that the Confederate Government appropriated $800,000 to pay these claims. They went to work and paid them, and it was only about twenty years ago that this Government could find out anything on this subject; and then they bought the original book of the Confederate post-office department containing the payments that had been made upon these claims. They paid $2,500 to a private party for that book. What did they find? They found that the book had been mutilated by some interested parties, and a dozen sheets in some places torn out of the book, the last preceding leaf and the next leaf showing payments paid on account of United States transportation of mails, payment for this very service. How many there are who were paid on the sheets torn out no man can tell.

Now, it was said to us the other day that in some of these cases, and in this case, the gentleman had made the affidavit that he had not received payment, and it was stated that he was a reputable citizen, a man who would not make a statement that he had received payment if he had not. He took this contract in 1858. In 1860 he received a warrant from the Treasury, No. 6712, for $1,222.63. It appears that in 1883, on the 9th day of October, he made an affidavit that he had indorsed the warrant over to his friend, Thomas Taylor, who was the postmaster, and that Taylor had sent it to J. Putnam, a commission merchant in New Orleans, for collection, and that it was lost in the mails, and that they had received nothing on the warrant. He made an application for a new warrant to issue.

About this time other parties made claim for this warrant, claiming to own it, and a Government agent made a thorough investigation. They found that Johnson had assigned the warrant to one De Crow, and received from him full value for it; that De Crow sold it May 14, 1861, to this Mr. Thomas Taylor, and that Taylor paid it over to J. Valentine & Co. afterwards, who invested it for him in Confederate bonds. Johnson's affidavit stated that Taylor was dead, but the Government found that he was alive, and got his affidavit of all the facts in the case. Taylor's books were shown to the Government's agent, in which there was this entry against Valentine & Co.: "To cash, $1,282.75, P. O. warrant 122263."

The Government made a thorough investigation in New Orleans and found that no such a man as J. Putnam was ever there in the commission business. At the time Johnson made the claim for the lost warrant he made no claim whatever that anything was due him on this contract. Now, here is this witness who comes here pressing that this claim never was paid, and on his affidavit or statement, I do not know which, this committee say that the claimant has never been paid.

We have the statement of the Department that they have these mutilated records, and so far as the records show it does not show any payment of Johnson, and therefore the presumption is that he was not paid. But when he presented the claim for the lost warrant he said nothing about this few months of 1861 for carrying the mail. If he had a claim he would have presented it to the Post-Office Department. He had no such claim. We find that one of the States that seceded assumed to pay these contracts, and paid them to these mail carriers, and then the Confederacy came on and they assumed to pay them, and made an appropriation. Some of them came in a second time, and were paid. Some of these claims were presented to the Post-Office Department of the United States after they had been paid twice, on the claim that they had never been paid.

Mr. CLAUDE KITCHIN. Will the gentleman permit me to interrupt him?

Mr. PAYNE. Not at this time. Now, Mr. Speaker, whether this is one of those cases where the book had been mutilated and the pages torn out where Johnson was paid, I do not undertake to say; but there is a strong presumption that he was paid, because of the appropriation of the United States Government, and the practice of the Confederate Government, because they did take and pay it out of the property of the United States Government. He did not make a claim for this payment when he made the demand for the warrant, and there is nothing to show that it has not been paid, unless it is the word of this man Johnson, who is impeached by the records of the Post-Office Department, by witness after witness of the Government, when he made a claim for this draft which he said he had lost and to get a duplicate draft. I say that this is a case that ought not to meet the approval of this House.

Mr. CLAUDE KITCHIN. Mr. Speaker, I tried to ask the gentleman from New York when that warrant was issued, and for what time.

Mr. PAYNE. It was issued for 1860, on this very contract.

Mr. CLAUDE KITCHIN. If that is true, the records of the Post-Office Department—the Auditor for the Post-Office Department—show that that has been paid, and he is not claiming that amount or that warrant.

Mr. PAYNE. Can it be possible that the gentleman did not understand anything I said?

Mr. CLAUDE KITCHIN. It may be possible that I did not understand the gentleman. I wanted to ask him if that was not for services rendered prior to December 31, 1860?

Mr. PAYNE. Certainly; and he made a false affidavit. He impeached himself, and he is impeached by the records of the Post-Office Department.

Mr. CLAUDE KITCHIN. This claim is for services after December 31, 1860.

Mr. PAYNE. Why, certainly.

Mr. CLAUDE KITCHIN. From December 31, 1860, to May 31, 1861. And he swore that it had not been paid, and the Confederate records show that it has not been paid. The records of the Post-Office Department at Washington show that it has not been paid. The gentleman from New York surely has not seen the last letter of the Postmaster-General, of date January 17, 1903. I want the gentleman to listen, because he has not seen this letter in which the Auditor for the Post-Office Department itemized every single claim that appears to be due now, and itemized every single claim paid by the Confederate Government, according to its records, to the amount of $457,541.15, and it shows that this claim has not been paid.

Mr. PAYNE. It shows on the record of the Post-Office Department that the Confederate Government paid over $568,000 prior to the first quarter in 1864, and it also shows that the records of the Confederate Government had been mutilated—whole pages having been removed, and in some places dozens of pages torn out right in the midst of this very matter.

Mr. CLAUDE KITCHIN. This letter from the Postmaster-General accounts for that difference. He says the Confederate Government appropriated $800,000, not only to pay the mail contractors, but postmasters and others in the postal service, and that $107,000 difference might have been paid to postmasters and other agents connected with the postal service.

Mr. PAYNE. I want to say to the gentleman that the records

show that so much was paid for mail transportation, and to distinguish it from the Confederate mail transportation they said United States mail transportation, $568,000.

Mr. CLAUDE KITCHIN. But the letter from the Postmaster-General shows that you are mistaken about that.

Mr. PAYNE. The records show it. Read us where he says that I am mistaken.

Mr. CLAUDE KITCHIN. Has the gentleman from New York been to the office of the Treasury Department and examined the old Confederate records?

Mr. PAYNE. I have been to the office of the Auditor of the Post-Office Department and examined the old Confederate records, a method that I would commend, with becoming modesty, to my friend from North Carolina.

Mr. CLAUDE KITCHIN. When did the gentleman go there?

Mr. PAYNE. This morning.

Mr. CLAUDE KITCHIN. Why, Mr. Speaker, the report made by the Auditor upon his examination of his own records covers six months. He has been at that six months; that is, the Senate resolution directing the Postmaster-General to prepare an itemized statement of all these claims from the records, both United States and Confederate, was passed June 26, 1902, and this letter is dated January 17, 1903, and yet the gentleman says he has only been there this morning and made an examination and virtually says that the Auditor is mistaken. The gentleman from New York wants us to take his word for it from his hasty investigation.

Mr. PAYNE. I beg the gentleman's pardon. He does not say anything of the kind or contradict what I say. He says that the records have been mutilated.

Mr. CLAUDE KITCHIN. Yes, and the only difference he finds is this $107,000 to which you refer, and this is accounted for by the payment to the postmasters and other postal agents in the Southern States. Now, let me quote exactly what he says:

It is evident, therefore, that there was paid by the Confederate States Government $107,003.07 more than is shown by their records of individual payments, and hence it is believed that the statement submitted herewith is to that extent in excess of the amount actually due as shown by the records of this office, unless, as indicated in the appropriation act of the Confederate congress above referred to, the amount paid was made to persons under appointment in the postal service other than mail contractors, of which this office has no record.

So when the Union armies captured the Confederate records they did not capture those containing the appointment and payments of postmasters and others in the postal service, but did capture all that related to the mail contractors. From the Confederate records and the records of the Auditor's Office for the Post-Office Department it appears that the Confederate Government paid $457,541.15 and left unpaid $225,466.23, and the report of the Auditor shows that among the unpaid claimants is Mr. Johnson, this claimant.

Mr. PAYNE. On the contrary, the report of the auditor of the Confederate States for the first quarter of 1864 showed that they had already paid $568,000.

Mr. CLAUDE KITCHIN. For postal services, including postmasters, mail contractors, and others in the postal service. You have the record there; read it. I have read the record which you have before you, and it shows that the appropriations and payments were made for mail contractors and for others in the postal service—including postmasters and all others in the mail service. And in this report of the Confederate Government auditor we find that they spent $564,544.22, under the act of the Confederate congress, for postal contractors, postmasters, and others in the mail service. You have the report there; why not read it?

Mr. PAYNE. They got this after that record was made; they got it during Cleveland's Administration.

Mr. CLAUDE KITCHIN. Has not the gentleman before him the RECORD for the Forty-fifth Congress, second session?

Mr. PAYNE. I have.

Mr. CLAUDE KITCHIN. If the gentleman will turn to page 1594 he will find that I am correct about it.

Mr. PAYNE. That record was made in March, 1878. This book, to which I refer, was bought when Mr. Carlisle was Secretary of the Treasury under the Cleveland Administration.

Mr. CLAUDE KITCHIN. The gentleman said that the act of congress appropriated $800,000 to pay——

Mr. PAYNE. I said the Confederate congress.

Mr. CLAUDE KITCHIN. Yes, I refer to the Confederate congress—that it appropriated $800,000 to pay only mail contractors. I say it appropriated that amount to pay mail contractors and every other man in the postal service.

Mr. PAYNE. They showed me the original in the office of the Auditor this morning.

Mr. CLAUDE KITCHIN. Now, I want to ask this question of the gentleman from New York: Have you read and studied this letter of the Postmaster-General that he sent to the Senate January 17, 1903, by virtue of a Senate resolution of date June 26, 1902, asking the Postmaster-General to hunt up all these matters and find out the truth about it? Here is that resolution which brought forth the letter:

Resolved, That the Postmaster-General be directed to send to the Senate the number of items and the total amount due to individuals for carrying the mails prior to May 1, 1861, in cases where the Confederate records on file in the Department fail to show payment by the Confederate Government.

Mr. PAYNE. I notice——

Mr. CLAUDE KITCHIN. I ask you whether you have read that letter?

Mr. PAYNE. I have not.

Mr. CLAUDE KITCHIN. I know you have not; your speech would indicate it.

Mr. PAYNE. They showed me the original of it in the Post-Office Department this morning.

Mr. CLAUDE KITCHIN. How can the gentleman have any exact knowledge of this matter, which it must have taken months to prepare, when he has only looked into it for, perhaps, an hour this morning?

Mr. PAYNE. They did the best with the mutilated records they had. Some gentleman has very kindly—unwittingly, I suppose—opened up to these gentlemen the idea that the Government has not a defense in the records of the Confederacy against the payment of whatever amount may remain of these $220,000 worth of claims; and of course that would open a grand chance for the army of claimants.

Mr. CLAUDE KITCHIN. I want to say to the gentleman that I have carefully examined the Confederate records in regard to this matter, and if the gentleman will make a careful examination he will find that according to the records of the Confederate Congress and the reports of the postmaster-general, and the records of the Confederate Government, and our Department records here—put everything in, giving you every advantage of everything you can claim—there are claimants to the amount of over $150,000 who have not been paid. Why, then, should the gentleman from New York, with his suspicious mind, maintain that this man is among the number who are frauds and liars, and not among the number of honest claimants who have never been paid, and who the records of the Department show have not been paid.

Mr. PAYNE. How can you show that, when the records are mutilated?

Mr. CLAUDE KITCHIN. The gentleman talks about records being mutilated. A few moments ago he spoke, as I understood him, of a book having been bought from Mr. Carlisle having these records.

Mr. PAYNE. I said Mr. Carlisle bought this book. The gentleman can not misquote me in that way. But I have repeated time and again that whole pages—in one instance a dozen pages—have been taken out of the book, right along where these accounts should be.

Mr. CLAUDE KITCHIN. The Auditor, whose duty it was under the resolution of the Senate to examine these accounts, has spent several months in doing so—from June 26 of last year to January 17 of this year—and he does not say that this book you speak of was mutilated, that pages were cut out. But he says that some of the records of the Confederate Government have been mutilated. We all admit that. But he does not say that they have been mutilated so much that on account of the mutilation this claim can not be investigated. I say to the House that this claim has never been paid, but is among the number which the Auditor sends to the Senate as being unpaid.

[Here the hammer fell.]

The SPEAKER pro tempore. The question is on the amendment proposed by the committee.

The question being taken, the amendment was agreed to.

The SPEAKER pro tempore. The question is now on ordering the bill as amended to be engrossed and read a third time.

The question was decided in the affirmative.

The SPEAKER pro tempore. The question is now on the passage of the bill.

The question having been taken.

The SPEAKER pro tempore. The noes appear to have it.

Mr. CLAUDE KITCHIN. I call for a division.

The question was again taken; and there were—ayes 61, noes 40.

Mr. PAYNE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 109, nays 72, answered "present" 14, not voting 157; as follows:

YEAS—109.

Adamson,	Benton,	Burleson,	Cowherd,
Allen, Ky.	Billmeyer,	Burnett,	Creamer,
Allen, Me.	Bowie,	Butler, Pa.	De Armond,
Ball, Del.	Brantley,	Candler,	Dick,
Ball, Tex.	Breazeale,	Clark,	Dougherty,
Bankhead,	Broussard,	Clayton,	Elliott,
Bell,	Brundidge,	Conry,	Finley,

Flanagan,	Kluttz,	Mutchler,	Small,
Fleming,	Lamb,	Neville,	Smith, Ill.
Foster, Ill.	Latimer,	Padgett,	Snodgrass,
Fowler,	Lester,	Patterson, Pa.	Spight,
Gaines, Tenn.	Lever,	Randell, Tex.	Stark,
Gilbert,	Lewis, Ga.	Reid,	Stephens, Tex.
Gooch,	Lindsay,	Rhea,	Sulloway,
Graff,	Little,	Rixey,	Sulzer,
Green, Pa.	Livingston,	Robb,	Talbert,
Griffith,	Lloyd,	Robinson, Ind.	Tate,
Henry, Tex.	McAndrews,	Rucker,	Thomas, N. C.
Hooker,	McClellan,	Russell,	Vandiver,
Howard,	McCulloch,	Ryan,	White,
Jackson, Kans.	McLain,	Shackleford,	Williams, Ill.
Johnson,	McRae,	Shallenberger,	Williams, Miss.
Jones, Va.	Maddox,	Shattuc,	Wright,
Kehoe,	Martin,	Sheppard,	Young,
Kern,	Mickey,	Showalter,	Zenor.
Kitchin, Claude	Miller,	Sibley,	
Kitchin, Wm. W.	Moody, Oreg.	Sims,	
Kleberg,	Moon,	Slayden,	

NAYS—72.

Aplin,	Douglas,	Holliday,	Payne,
Bartholdt,	Dovener,	Howell,	Pearre,
Bishop,	Draper,	Jones, Wash.	Scott,
Bowersock,	Driscoll,	Knapp,	Shelden,
Brick,	Eddy,	Kyle,	Smith, H. C.
Brown,	Emerson,	Lacey,	Southwick,
Burton,	Esch,	Landis,	Sperry,
Cannon,	Fitzgerald,	Littauer,	Stevens, Minn.
Capron,	Gardner, N. J.	Littlefield,	Stewart, N. J.
Cochran,	Gillet, N. Y.	Loud,	Sutherland,
Coombs,	Graham,	Lovering,	Tawney,
Corliss,	Greene, Mass.	Mercer,	Thomas, Iowa
Cromer,	Grosvenor,	Miers, Ind.	Tirrell,
Crumpacker,	Grow,	Morgan,	Wanger,
Currier,	Hamilton,	Needham,	Warner,
Curtis,	Henry, Conn.	Olmsted,	Warnock,
Cushman,	Henry, Miss.	Overstreet,	Watson,
Deemer,	Hill,	Palmer,	Weeks.

ANSWERED "PRESENT"—14.

Boutell,	Haskins,	Mann,	Steele,
Brownlow,	Hopkins,	Otjen,	Swann.
Bull,	Hughes,	Richardson, Tenn.	
Cassingham,	Joy,	Ruppert,	

NOT VOTING—157.

Acheson,	Dinsmore,	Knox,	Richardson, Ala.
Adams,	Dwight,	Lassiter,	Roberts,
Alexander,	Edwards,	Lawrence,	Robertson, La.
Babcock,	Evans,	Lessler,	Robinson, Nebr.
Barney,	Feely,	Lewis, Pa.	Scarborough,
Bartlett,	Fletcher,	Long,	Schirm,
Bates,	Flood,	Loudenslager,	Selby,
Beidler,	Foerderer,	McCall,	Shafroth,
Bellamy,	Fordney,	McCleary,	Sherman,
Belmont,	Foss,	McDermott,	Skiles,
Bingham,	Foster, Vt.	McLachlan,	Smith, Iowa
Blackburn,	Fox,	Mahon,	Smith, Ky.
Blakeney,	Gaines, W. Va.	Mahoney,	Smith, S. W.
Boreing,	Gardner, Mass.	Marshall,	Smith, Wm. Alden
Brandegee,	Gardner, Mich.	Maynard,	Snook,
Bristow,	Gibson,	Metcalf,	Southard,
Bromwell,	Gill,	Meyer, La.	Sparkman,
Burgess,	Gillett, Mass.	Minor,	Stewart, N. Y.
Burk, Pa.	Glass,	Mondell,	Storm,
Burke, S. Dak.	Glenn,	Moody, N. C.	Swanson,
Burkett,	Goldfogle,	Morrell,	Tayler, Ohio
Burleigh,	Gordon,	Morris,	Taylor, Ala.
Butler, Mo.	Griggs,	Moss,	Thayer,
Calderhead,	Hanbury,	Mudd,	Thompson,
Caldwell,	Haugen,	Naphen,	Tompkins, N. Y.
Cassel,	Hay,	Nevin,	Tompkins, Ohio
Connell,	Heatwole,	Newlands,	Trimble,
Conner,	Hedge,	Norton,	Underwood,
Cooney,	Hemenway,	Parker,	Van Voorhis,
Cooper, Tex.	Hepburn,	Patterson, Tenn.	Vreeland,
Cooper, Wis.	Hildebrant,	Perkins,	Wachter,
Cousins,	Hitt,	Pierce,	Wadsworth,
Crowley,	Hull,	Pou,	Wheeler,
Dahle,	Irwin,	Powers, Me.	Wiley,
Dalzell,	Jack,	Powers, Mass.	Wilson,
Darragh,	Jackson, Md.	Prince,	Woods,
Davey, La.	Jenkins,	Pugsley,	Wooten.
Davidson,	Jett,	Ransdell, La.	
Davis, Fla.	Kahn,	Reeder,	
Dayton,	Ketcham,	Reeves,	

So the bill was passed.

The following additional pairs were announced:

For the session:

Mr. BROMWELL with Mr. CASSINGHAM.

Until further notice:

Mr. HUGHES with Mr. TRIMBLE.

Mr. FOSTER of Vermont with Mr. POU.

For this day:

Mr. HAUGEN with Mr. WILSON.

Mr. POWERS of Maine with Mr. BARTLETT.

Mr. MCCALL with Mr. RICHARDSON of Tennessee.

Mr. BINGHAM with Mr. TAYLOR of Alabama.

Mr. MANN with Mr. JETT.

Mr. MAHON with Mr. SPARKMAN.

Mr. DWIGHT with Mr. COONEY.

Mr. MINOR with Mr. SWANN.

Mr. ACHESON with Mr. FLOOD.

Mr. COOPER of Wisconsin with Mr. FEELY.

Mr. JENKINS with Mr. MAHONEY.

Mr. EVANS with Mr. WILEY.

Mr. SMITH of Iowa with Mr. ROBERTSON of Louisiana.

Mr. DAVIDSON with Mr. RANSDELL of Louisiana.

Mr. PRINCE with Mr. HAY.

Mr. VREELAND with Mr. RICHARDSON of Alabama.

Mr. CONNER with Mr. THOMPSON.

For this vote:

Mr. MOODY of North Carolina with Mr. PUGSLEY.

Mr. HITT with Mr. DINSMORE.

Mr. HEPBURN with Mr. MCDERMOTT.

Mr. COUSINS with Mr. CALDWELL.

Mr. BURKE of South Dakota with Mr. DAVEY of Louisiana.

Mr. HEATWOLE with Mr. THAYER.

The result of the vote was announced as above recorded.

On motion of Mr. CLAUDE KITCHIN, a motion to reconsider the last vote was laid on the table.

JOHN L. YOUNG.

The next business was the bill (H. R. 7792) for the relief of John L. Young, with an amendment.

Mr. PAYNE. Mr. Speaker, I suppose many of the members of the House simply come in here and vote, without knowing what the character of the bill is; whether it is to pay a claim for carrying mail, or whether it is in the nature of a gratuity for some person; whether it is an honest and a just claim or not, and there is not much use of wasting the time of the House in speaking about the matter under consideration. Yet I deem it my duty to present the facts in this case, so far as I can get them. Here is a claim for carrying the mail in the State of South Carolina from the 1st day of January to the 31st day of May, 1861. It appears that South Carolina seceded on the 20th of December, 1860, and, as is well known, there was no Government of the United States exercised in that State during this entire period.

Another peculiar feature about this bill is that it is to pay John L. Young the amount. Still the bill and the report and all the records show that the contract was made with a railroad—the Spartanburg and Union Railway Company, I think, of which John L. Young was the president. The chairman of the committee, in looking around for evidence in this case, evidently wrote to the Postmaster-General to see if there was any assignment by this railroad company to John L. Young of the claim. The gentleman from Illinois [Mr. GRAFF] evidently got on to the idea that before this bill passed the House there ought to be some kind of an assignment to Mr. Young. So he wrote to the Post-Office Department, and the Postmaster-General, under date of February 24, 1902, says:

> I find no evidence of the assignment of the claim for compensation for service by the railroad company to John L. Young, to which you refer.

Again, the Auditor of the Post-Office Department says:

> There is no evidence in this office that any service was performed from April 1 to May 31, 1861.

That includes two months of the time included in this bill. Mr. Speaker, it is useless to comment on these facts which appear in the records of the committee. The committee say in their report:

> The papers in the case satisfy your committee that said John L. Young, individually, is the owner of the claim and should be paid the same.

Well, the committee does not give us any light as to how Mr. Young came to be the owner of the claim. The papers do show that the chairman was looking after some paper to establish an assignment of the claim to Mr. Young, and he could not find it in the Post-Office Department.

Mr. CLAUDE KITCHIN. Mr. Speaker, will the gentleman yield for a question?

Mr. PAYNE. Yes; but do not take up much of my time.

Mr. CLAUDE KITCHIN. Has the gentleman examined the evidence in this case?

Mr. PAYNE. I have examined simply the report in the case and what I could get in the Post-Office Department.

Mr. CLAUDE KITCHIN. Here is the evidence in the case before the committee, and it has been in the committee room all the time. It includes affidavits, letters, and other material evidence.

Mr. PAYNE. Have you any assignment of this claim to Mr. Young in your hand?

Mr. CLAUDE KITCHIN. No; but I have two affidavits from Mr. Young that he was president of this railroad; that the Department discontinued the service on May 31, 1861; that on June 1, 1861, he resigned his position as president of the road, and made the road settle with him. They owed him some over $7,000, and he took this claim as part payment, and did no more postal work for the Confederate government.

Mr. PAYNE. He does not present any assignment of the claim?

Mr. CLAUDE KITCHIN. Yes; he swears that they turned it over to him.

Mr. PAYNE. Did he bring any assignment of the claim?

Mr. CLAUDE KITCHIN. No assignment of the claim, but an affidavit.

Mr. PAYNE. That at some time it was assigned?

Mr. CLAUDE KITCHIN. And the further fact that this railroad in all these years has never put in any claim, has never claimed to own it. If the claim had been the property of the company, the company undoubtedly would have put it in.

Mr. PAYNE. The gentleman does not know whether this claim has ever been paid or not. I do not know whether it has been paid or not. The Confederate records that would have showed whether this claim was paid or not have been mutilated. They do not show whether it has been paid or not. They do not show its payment. What was contained in the missing leaves that some one took out before they turned the book over to the Government of the United States, of course we do not know. This claim comes in here forty years after it matured.

The gentleman says this claimant was loyal to the United States. Why in the name of common sense, then, did he not go to the Government of the United States in 1861 with this claim, if he had it, and present it forty-two years ago, instead of waiting until this time? The claim is not only old and dead, but it has an odor about it that seems bad to gentlemen who are seeking to do their duty here and to vote on claims according to their judgment whether they are right or wrong.

And now I want to state to the House that this is only the beginning of these claims. Some Senator introduced a resolution a short time since, calling upon the Postmaster-General to show all the claims for this class of postal service that did not appear by this mutilated record to have been paid, and the Postmaster-General of course had to return that. Before that the Department had not allowed anybody to see those records, especially if they were claimants. People were a little afraid to come in and make affidavit that they had not been paid, if they had been paid, for fear the record might turn up against them. The Senate resolution went over there and the Postmaster-General was obliged to disclose all that was in those records.

Now, at the next session of Congress we shall witness every one of these claimants rising up, or the heirs of claimants where the claimants themselves are dead, coming here to Congress, marshaled by claim agents who have undoubtedly ere this sent around their very alluring letters to the people to come in and make claims, promising that it shall not cost them anything, and that they will get half of what comes out of the Government of the United States, simply because this resolution went over from the Senate, and the Postmaster-General had to give up the lack of evidence he had as to some of these claims. He could not supply the missing pages torn out of this book. He can not supply the proof that these claims were paid, because the books have been mutilated by some person who was interested to do it before the Government could get hold of the book.

And so this is the opening of the door that we have, by one of the committees of Congress, and these claimants, after forty-three years, are invited to come in here and make their claims to the Congress of the United States. And no matter how fast they come, it will be impossible to keep half a quorum of the House to hear even a word of discussion of the facts as to these claims.

I have taken some pains to find out the facts as to these claims to which I have objected. I invite the members of the House to sit down in the quiet of their offices and read the facts as I have presented them about each one of these claims, and I think some gentlemen who have come in here since the argument will feel ashamed that they voted for the claim under these circumstances.

[Here the hammer fell.]

Mr. CLAUDE KITCHIN. Mr. Speaker, we face this proposition: The gentleman who opposes this measure admits that he has not even read the evidence, and yet he violently opposes the measure under that admission.

Now, I want to say to that side of the House, this is certainly not a partisan bill and it certainly ought not to be a sectional measure. I am surprised at the gentleman saying that we ought to kill this measure because it is 43 years old.

Why, the gentleman knows that if the claim had come to Congress at any time prior to ten years ago it would have thrown that side of the Chamber into convulsions—the very name of rebel and Confederate veteran would have thrown you into sectional spasms. Such was the feeling that arose about any claim that came from anyone in any of the seceding States.

Mr. PAYNE. Was not this man a Union man, according to the statement of the gentleman?

Mr. CLAUDE KITCHIN. I did not say so.

Mr. PAYNE. Did you not say a moment ago he was a Union man.

Mr. CLAUDE KITCHIN. I did not say so a moment ago.

Mr. PAYNE. I understood the gentleman to say so himself.

Mr. CLAUDE KITCHIN. I did not say so. I said he was the president of the railroad that had the mail contract, and when the United States Post-Office Department discontinued the mail service, May 31, 1861, he at once resigned as president.

Mr. PAYNE. You were so understood by other gentlemen here.

Mr. CLAUDE KITCHIN. Now the reason, gentlemen, and we all know it, why it has not been attempted to pass these bills through Congress was because of the sectional feeling engendered by the war. Why, my friends, in 1867 the sectional feeling and excitement ran so high that a bill passed through this House, through the Senate, and was approved by the President, forbidding any officer of the Government paying any claim or demand whatever, arising prior to the war, to anyone not known to be opposed to the Confederacy, however honest and just it might be. That statute is on the Federal statute books to-day.

For twenty years after 1867 the spirit that inspired that act was dominant in this House. The time is passed—ought to be passed—when such a spirit should seize and dominate a single mind or heart in this House. Mr. Young, the claimant, is an intelligent, cultured gentleman. He has lived the life of honorable citizenship for 82 years. He began life as civil engineer, and built for the most part with his own brain and brawn and money this railroad. He was president and manager of it until this service was discontinued by the United States Government, May 31, 1861. He immediately resigned, and had a settlement with this road the very next day and they turned this very claim over to him as a part payment for his services. Men of such character do not commit perjury to get a few dollars. I am informed by the gentleman from South Carolina [Mr. JOHNSON] that Mr. Young died about ten days ago.

Mr. LOUD. Will the gentleman yield to me right there?

Mr. CLAUDE KITCHIN. I will.

Mr. LOUD. Will the gentleman try to explain to this House his honest opinion of how much United States mail was carried in South Carolina along about May, 1861?

Mr. CLAUDE KITCHIN. I do not know how much; but certainly it was carried. Just about as much as it had been. I have a letter here from the Auditor of the Post-Office Department showing that mail service was not discontinued in South Carolina until May 31, 1861. By the way, I want to say that the Confederate postmaster-general compelled every single one of the mail carriers to settle with the United States Government to May 31, 1861, and these settlements were made. These very settlements appear to-day upon the Auditor's books.

Mr. LOUD. Why did they not settle this?

Mr. CLAUDE KITCHIN. Simply because the war came on. The settlements were stopped. I hold in my hand the original copy of a letter written by Mr. Young to the Post-Office Department May 25, 1866, in which he demanded payment of this identical claim, and also the original letter from the Auditor in reply thereto. I want to read it to show you not only the feeling existing at the time, but that this claimant began at once after the war to insist upon payment of this claim, and to show also why it was not settled.

OFFICE OF THE AUDITOR OF THE TREASURY
FOR THE POST-OFFICE DEPARTMENT,
May 31, 1866.

SIR: Your letter of the 25th May has been received. I have, in reply, to say that you are doubtless aware that one of the evils which the rebels brought upon the people of the States declared to be in rebellion by the proclamation of the President was the suspension of the settlement and payment of all claims of contractors for services rendered prior to the war.

* * * * * * * *

Very respectfully,

I. N. ARNOLD, *Auditor.*

JOHN L. YOUNG, Esq.,
Office of the Spartanburg and Union Railroad Company,
Unionville, S. C.

That is the reason they were not paid then, and this gentleman has followed up his claim with letters to the Post-Office Department from 1866 and to the Congressmen who represented the district from 1866 to the present time. There are letters to the Congressmen in 1872, 1874, and 1877, Republican Congressmen, until now, insisting and showing at all times that this Government owed him for this mail service, for which he had never been paid a cent, and which was found to be due by the Post-Office Department May 31, 1861.

There on my desk is all the evidence, clear and voluminous. Here are affidavits, letters to and from the Post-Office Department, letters to and from members of Congress of his district, from 1866 till now, and other evidence material to the facts in the matter. Now, with this evidence, with the evidence of the Confederate records showing that this man was never paid a dollar, with the evidence of the Post-Office Department records showing that he has never been paid a dollar and that it is still due—with all this evidence, how can you declare that this man committed perjury? He has not been silent for these forty-three years. You have his letter to the Department, dating as far back as May 25, 1866, insisting upon payment of this very claim, and

the letters of the Department showing why these matters were not then paid.

With this evidence before me as a member of the Claims Committee and as a member of this House, I would not, I could not, turn down this claim on the ground that the gentleman from New York had a suspicion that this was a fraudulent claim because some parties attempted twenty-five years ago to defraud the Government. I could not believe that Mr. Young deliberately committed perjury in order to get a few dollars out of the Government. I came to the conclusion—I was forced to the conclusion from the evidence that this was a just claim. I know, and you know, that the only reason that these Southern claims were not paid long ago was because of the feeling between the two sections, and because of the act of 1867 forbidding the payment of any of these claims.

Gentlemen of the House, as I have said, it is not a partisan question, it is not a sectional question, but it is simply one of justice. He has not slept upon his rights. He has pursued this claim for nearly forty years. All the records sustain his contention. He ought to be paid. The Government has had his services. The Government admits that it owes it in the letter from the Post-Office Department dated January 17, 1903, which my friend says he has not read. If any man will conquer his prejudices and read the evidence as we have read it and study it as we have studied it, he will be forced in spite of himself to the conclusion to which this committee has come unanimously, and which I hope and believe this House will come to.

The SPEAKER pro tempore. The question is on the amendments proposed by the committee.

The question was taken; and the committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question now is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. PAYNE) there were—ayes 70, noes 42.

Mr. PAYNE. Mr. Speaker, I make the point of no quorum.

The SPEAKER pro tempore. The gentleman from New York makes the point of no quorum. The Chair will count. [After counting.] One hundred and fifty-three members present—no quorum. The officers will close the doors. The Clerk will call the roll. As many as are in favor of the passage of the bill, as their names are called, say "aye," and those opposed say "no." The Clerk will proceed with the call.

The question was taken; and there were—yeas 108, nays 78, answered "present" 24, not voting 142; as follows:

YEAS—108.

Adamson,	Dougherty,	Lindsay,	Shallenberger,
Allen, Ky.	Douglas,	Little,	Sheppard,
Allen, Me.	Elliott,	Livingston,	Sibley,
Ball, Del.	Finley,	Lloyd,	Sims,
Ball, Tex.	Flanagan,	McAndrews,	Slayden,
Bankhead,	Fleming,	McCulloch,	Smith, Ky.
Bell,	Gaines, Tenn.	McLachlan,	Smith, H. C.
Benton,	Gibson,	McRae,	Snodgrass,
Billmeyer,	Gilbert,	Maddox,	Sparkman,
Bowie,	Gooch,	Mickey,	Spight,
Brantley,	Graff,	Miller,	Stark,
Broussard,	Green, Pa.	Moody, Oreg.	Stephens, Tex.
Brundidge,	Griffith,	Moon,	Sulzer,
Bull,	Hanbury,	Neville,	Swann,
Burke, S. Dak.	Hooker,	Padgett,	Talbert,
Burleson,	Howard,	Patterson, Pa.	Tate,
Burnett,	Johnson,	Powers, Mass.	Taylor, Ala.
Caldwell,	Jones, Va.	Randell, Tex.	Thomas, Iowa
Candler,	Kehoe,	Reid,	Thomas, N. C.
Cassingham,	Kern,	Rhea,	Underwood,
Clark,	Kitchin, Claude	Rixey,	Wachter,
Cowherd,	Kitchin, Wm. W.	Robb,	Wanger,
Creamer,	Kleberg,	Robinson, Ind.	White,
Davey, La.	Kluttz,	Rucker,	Wiley,
De Armond,	Lamb,	Russell,	Williams, Miss.
Dick,	Lever,	Ryan,	Young,
Dinsmore,	Lewis, Ga.	Shackleford,	Zenor.

NAYS—78.

Adams,	Emerson,	Kyle,	Reeves,
Aplin,	Esch,	Lacey,	Scott,
Bishop,	Fitzgerald,	Lawrence,	Shelden,
Bowersock,	Fletcher,	Littauer,	Showalter,
Bromwell,	Gardner, N. J.	Loud,	Smith, Ill.
Burton,	Gillett, Mass.	Lovering,	Southwick,
Cannon,	Graham,	McCleary,	Sperry,
Capron,	Greene, Mass.	McClellan,	Stevens, Minn.
Cochran,	Grosvenor,	Mahon,	Stewart, N. J.
Conner,	Grow,	Martin,	Stewart, N. Y.
Coombs,	Hamilton,	Mercer,	Tayler, Ohio
Corliss,	Heatwole,	Mondell,	Thayer,
Cromer,	Hill,	Morgan,	Tirrell,
Crumpacker,	Hitt,	Needham,	Vreeland,
Currier,	Holliday,	Olmsted,	Warner,
Curtis,	Howell,	Overstreet,	Warnock,
Deemer,	Hull,	Palmer,	Williams, Ill.
Dovener,	Jones, Wash.	Payne,	Wright.
Draper	Ketcham,	Pearre,	
Driscoll,	Knapp,	Perkins,	

ANSWERED "PRESENT"—24.

Bartlett,	Foster, Vt.	Mann,	Richardson, Tenn.
Boreing,	Haskins,	Meyer, La.	Ruppert,
Boutell,	Henry, Conn.	Mudd,	Smith, Wm. Alden
Brownlow,	Hopkins,	Norton,	Steele,
Cooper, Wis.	Kahn,	Otjen,	Van Voorhis,
Foss,	Lessler,	Pugsley,	Wheeler.

NOT VOTING—142.

Acheson,	Davidson,	Jackson, Md.	Ransdell, La.
Alexander,	Davis, Fla.	Jenkins,	Reeder,
Babcock,	Dayton,	Jett,	Richardson, Ala.
Barney,	Dwight,	Joy,	Roberts,
Bartholdt,	Eddy,	Knox,	Robertson, La.
Bates,	Edwards,	Landis,	Robinson, Nebr.
Beidler,	Evans,	Lassiter,	Scarborough,
Bellamy,	Feely,	Latimer,	Schirm,
Belmont,	Flood,	Lester,	Selby,
Bingham,	Foerderer,	Lewis, Pa.	Shafroth,
Blackburn,	Fordney,	Littlefield,	Shattuc,
Blakeney,	Foster, Ill.	Long,	Sherman,
Brandegee,	Fowler,	Loudenslager,	Skiles,
Breazeale,	Fox,	McCall,	Small,
Brick,	Gaines, W. Va.	McDermott,	Smith, Iowa
Bristow,	Gardner, Mass.	McLain,	Smith, S. W.
Brown,	Gardner, Mich.	Mahoney,	Snook,
Burgess,	Gill,	Marshall,	Southard,
Burk, Pa.	Gillet, N. Y.	Maynard,	Storm,
Burkett,	Glass,	Metcalf,	Sulloway,
Burleigh,	Glenn,	Miers, Ind.	Sutherland,
Butler, Mo.	Goldfogle,	Minor,	Swanson,
Butler, Pa.	Gordon,	Moody, N. C.	Tawney,
Calderhead,	Griggs,	Morrell,	Thompson,
Cassel,	Haugen,	Morris,	Tompkins, N. Y.
Clayton,	Hay,	Moss,	Tompkins, Ohio
Connell,	Hedge,	Mutchler,	Trimble,
Conry,	Hemenway,	Naphen,	Vandiver,
Cooney,	Henry, Miss.	Nevin,	Wadsworth,
Cooper, Tex.	Henry, Tex.	Newlands,	Watson,
Cousins,	Hepburn,	Parker,	Weeks,
Crowley,	Hildebrandt,	Patterson, Tenn.	Wilson,
Cushman,	Hughes,	Pierce,	Woods,
Dahle,	Irwin,	Pou,	Wooten.
Dalzell,	Jack,	Powers, Me.	
Darragh,	Jackson, Kans.	Prince,	

So the bill was passed.

The following additional pairs were announced:

Until further notice:

Mr. HOWELL with Mr. MCDERMOTT.

For this day:

Mr. LEWIS of Pennsylvania with Mr. BREAZEALE.

Mr. BRICK with Mr. CLAYTON.

Mr. FOERDERER with Mr. FOSTER of Illinois.

Mr. HEPBURN with Mr. HENRY of Texas.

Mr. FORDNEY with Mr. JACKSON of Kansas.

Mr. OTJEN with Mr. LATIMER.

Mr. IRWIN with Mr. LESTER.

Mr. REEDER with Mr. MCLAIN.

Mr. KNOX with Mr. MUTCHLER.

Mr. ALEXANDER with Mr. MIERS of Indiana.

Mr. WADSWORTH with Mr. SMALL.

On this vote:

Mr. TAWNEY with Mr. CONRY.

Mr. FOSS with Mr. PATTERSON of Tennessee.

The result of the vote was announced as above stated.

The SPEAKER pro tempore. Without objection, the proposed amendment to the title of this bill will be agreed to.

There was no objection.

On motion of Mr. CLAUDE KITCHIN, a motion to reconsider the vote by which the bill was passed was laid on the table.

JOHN F. LAWSON.

The next business was the bill (H. R. 7864) to pay John F. Lawson $237.96, balance due him for services as United States mail carrier.

Mr. PAYNE. Mr. Speaker, this bill goes beyond anything that has ever been asked. It goes beyond any precedent that has ever been made, or any claim ever presented in any bill of this character. In the first place, away back in 1878, gentlemen on the other side of the House tried to get these bills paid up to the 31st day of May, 1861. Failing in that, they asked that they be paid up to the time that the States seceded. They failed in that. The bills of this character that we have already passed this afternoon provide for payment to the 31st of May. But here is a bill—

To pay to John F. Lawson, of Hickman County, Tenn., the sum of $237.96, being the balance owing to him for services rendered as United States mail carrier on route No. 10013, Tennessee, from January 1 to November 29, 1861, and said sum will be paid out of any money in the Treasury not otherwise appropriated.

Mr. LIVINGSTON made a remark in an undertone.

Mr. PAYNE. Did not the State of Tennessee secede? The gentleman answers "yes." I thought it did; I had that impression; and that State was in the possession of the Confederate Government in 1861. So that there is no excuse whatever for extending the time of this payment.

Now, if this claim were simply extended so as to include the time that this man could actually have been required to carry the

mail, it would not come to any such sum as is here named. I commend to the House the extreme care of my friend from Illinois [Mr. GRAFF], the chairman of this Committee on Claims—the care that he has for the Treasury of the United States—the care with which these bills are examined. Still, a bill comes in here to pay a claim up to November 29, 1861, upon a certain mail route. Why, sir, is there to be no end to this thing? Is there to be no limit? Is there to be no time fixed up to which these things are to be paid, if they must be paid under the leadership of the Committee on Claims?

And by the way, Mr. Speaker, I can not understand how that committee ever got jurisdiction of these three bills upon which we are acting to-day. I can not understand why these bills do not belong to the Committee on War Claims. I can not understand why the "ice bill" upon which we have been occupied to-day and last Friday came from the Committee on Claims and not from the Committee on War Claims. I am told by a member of the Committee on War Claims that the committee had the "ice bill" presented to them and that they turned it down. Yet it comes up here to-day from the Committee on Claims and the House passes it by a vote of 100 to 98.

Mr. CLAUDE KITCHIN. Will the gentleman allow me a question?

Mr. PAYNE. Oh, certainly.

Mr. CLAUDE KITCHIN. The gentleman says that this proposed settlement is up to November 29.

Mr. PAYNE. I say the bill so reads.

Mr. CLAUDE KITCHIN. No; the bill reads "July 10."

Mr. PAYNE. November 29.

Mr. CLAUDE KITCHIN. No——

Mr. PAYNE (handing the bill to Mr. CLAUDE KITCHIN). Well, there is the bill; read it.

Mr. CLAUDE KITCHIN. The amendment is in accordance with the report.

Mr. PAYNE. There is no statement of an amendment in the report.

Mr. CLAUDE KITCHIN. Let the gentleman read the report, and it will show what time this bill covers.

Mr. PAYNE. There is no statement of any amendment in the report or on the bill. There is no amendment pending.

Mr. CLAUDE KITCHIN. Read the report.

Mr. PAYNE. All there is in the report about these dates is in the letter from Mr. Castle, the Auditor for the Post-Office Department. Here is what he says:

SIR: In reply to your letter of December 13, 1901, relative to the claim of John L. Lawson for mail service on route No. 10013, Tennessee, from January 1 to November 29, 1861, you are informed that the compensation due Mr. Lawson from January 1 to July 10, 1861, the date to which the service was performed, in accordance with certificate on file, amounts to $316.30.

This would seem to indicate that Mr. Castle had computed the amount up to the 10th of July. There is a discrepancy between Mr. Castle's statement and the statement in the bill. But whichever may be the date intended, the House readily sees that it goes beyond May 31, when all these mail contracts were canceled by the proclamation of the Postmaster-General, which cancellation has always been recognized everywhere except in this Committee on Claims.

Mr. CLAUDE KITCHIN. The amount found due by the Auditor is the correct amount of the bill, which is up to July 10.

Mr. PAYNE. Now, Mr. Speaker, the reply is made that it corresponds up to July 10. It is doubtful, from the statement of the Auditor, whether he is counting up to July 10 or November 29; but whatever date it is, it is the wrong date, and there is no excuse for paying this claim a moment beyond May 31, 1861. In fact, there is no excuse for paying it at all.

Mr. CLAUDE KITCHIN rose.

Mr. PAYNE. Oh, I can not be interrupted all the time. The gentleman will have ten minutes and may correct it if he can. Mr. Lawson makes an affidavit that he carried the mail on the route from said date until November 28, 1861. He further states that he received about $74 on this first quarter of 1861 from the United States, and did not receive any more. So if we take it up to the time this State seceded from the Union, and that ought to be the proper date, and deduct the $74, there would remain the paltry sum of about $36 due on this contract, if he is able to make out his case, but we have a bill here to pay him $237. They pay him, confessedly, up to the 10th day of July, a month and ten days beyond the time that they themselves had tried to fix as the rule, and there is no excuse for that.

According to their own confession, they pay, as I believe, and as the bill states, down to the 29th day of November, 1861. Is the House to rush blindfolded into this business and pass this bill and make another precedent? Am I to be told by gentlemen on this side of the House, "Why, we are voting for this bill to pay the other side for voting for some of our bills; we want to pay our debts?" Is there a combination here, Mr. Speaker? Is that the reason that this money is to be voted out of the United States Treasury?

Mr. Speaker, I reserve the balance of my time.

Mr. CLAUDE KITCHIN. Mr. Speaker, I yield to the gentleman from Tennessee [Mr. PADGETT].

Mr. PADGETT. Mr. Speaker, I shall detain the House but a moment or two. This is a bill to pay Mr. Lawson two hundred and thirty-seven dollars and some cents for balance due him under a mail contract. The services were rendered until July 10, 1861. The contract extended up to November 29, 1861. Now, the gentleman from New York raises the question of secession. The letter that I have here of the Auditor of the Treasury shows that Mr. Lawson continued to perform service for the United States up to the date for which he asks pay, and the Government accepted his service. He continued to perform the service, and the Government got the benefit of that service.

Now, I want to call the attention of the House to the fact that at the time the order was made to which the gentleman from New York [Mr. PAYNE] refers, of May 31, Tennessee was in the Union. It had voted down the first proposition of secession, and the next election was not held until some time in June, as I remember, and the State did not take action until later, so that practically up to the time that he is asking for pay Tennessee was in the Union, and this man continued to perform the service for the Government under his contract. I say that it is a small contention to come before this honorable body in behalf of the United States and say that the Government would receive his services and then not pay him the contract price.

I want to say more, that under the decision of the Supreme Court of the United States none of the States were ever out of the Union. They were still States of the Union, and we have the bare, naked, bald question submitted to this Congress, if the Government made this contract and this man performed the service and the Government received the benefit of his service and continued to allow him to exercise the privilege of his contract and to perform the service, then how will the Government repudiate paying for the service which he performed? I say, Mr. Speaker, that we show by the records that the service was performed, that the Government got the benefit of it, that the amount the man claims is just, and that it is unpaid. There is no pretense in this case that it was ever paid by anyone, and I believe that the sense of justice of this House will vote to pay this old man what is justly and honorably due him under his contract.

Mr. PAYNE. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has four minutes.

Mr. PAYNE. Well, Mr. Speaker, in that four minutes I wish to say that the rule in the House of Representatives in the Forty-fifth Congress, which was at one time voted upon as the rule, was the date of the passing of the ordinance of secession by the convention, and of course everybody knows that Tennessee went out of the Union the second time by the action of the legislature, some time in May, and there is no excuse whatever for continuing this claim down to November 29, or even down to the 10th of July.

Mr. PADGETT. Will the gentleman yield for a question?

Mr. PAYNE. Yes.

Mr. PADGETT. Tennessee voted down the first proposition of secession in February, and the next election was not held until, I think, the 8th of June, and later on the legislature ratified the vote under the second election, and it was practically the 1st of July before Tennessee went out of the Union.

Mr. PAYNE. Hold on, I can not give the gentleman all of my time. The gentleman seems to want to make a speech in my time. Mr. Speaker, it still holds good that the proclamation of the Postmaster-General was addressed to the State of Tennessee, as well as to other States that went out on the ordinance of secession passed by the legislature, and that the stoppage of the mail and the assuming of the mail by the Confederate Government commenced on the 1st day of June, and the assuming of these contracts commenced on the 1st day of June. There is not a particle of excuse for going beyond that on any theory of the case and voting to pay this man for a single penny after the 31st day of May.

Mr. WILLIAMS of Mississippi. Was he not required to settle with the Government up to the 1st of July?

Mr. PAYNE. No; he was not.

Mr. PADGETT. He was required to settle.

A MEMBER. Did he not settle with the Confederate Government?

Mr. PADGETT. How could he when Tennessee was in the Union?

The question being taken on ordering the bill to be engrossed and read a third time, on a division (demanded by Mr. PAYNE) there were—ayes 73, noes 45.

Accordingly, the bill was ordered to be engrossed and read a third time; and was read the third time, and passed.

On motion of Mr. TALBERT, a motion to reconsider the last vote was laid on the table.

FRANCIS S. DAVIDSON.

The SPEAKER pro tempore laid before the House the following resolution:

Resolved, etc., That the President be requested to return to the Senate the bill (S. 1115) for the relief of Francis S. Davidson, late first lieutenant, Ninth United States Cavalry.

The resolution was agreed to.

GEORGE C. ELLISON.

The next business was the bill (H. R. 3385) for the relief of George C. Ellison, reported from the Committee of the Whole with a favorable recommendation.

Mr. COWHERD. Mr. Speaker, I desire to be heard in opposition to this bill. It seems to me that these bills ought to be heard and passed upon on their merits. I am not for all claims nor against all claims. I think each should stand on its own merits. This bill appears to me to be unique. It is a proposition to pay $5,000 to a man who claims to have spent that amount in defending himself against the charge of murder.

The facts, as I gather them from the report—and I pretend to no knowledge of the case except what appears in the report—are these: A man named Ellison was the engineer in charge of the machinery in the basement of this building. A man named Small, who had been assistant engineer, and had been discharged for some reason, cherished an enmity against Ellison and had made threats against his life. On one occasion Small went down into the engine room, he at the time probably being under the influence of intoxicating liquor, and approached Ellison in a threatening manner. Ellison picked up a billet of wood, or an ax handle, and struck Small over the head. Small afterwards died from the injury, and Ellison was arrested and tried for murder.

Now, I want to call the attention of the House to this fact, that there is no pretense in this case from the report of the committee, and none will be made, that this man Small was attempting to destroy the machinery, that he was making any attack upon the House, or that he was there with dynamite or gunpowder to blow up the building. It was a personal assault, made by one man against the other. It is in identically the same situation as though the assault had been made when the man Ellison was going home, except for the fact that he was in the engine room down here in the basement of this building. In fact, it is identically the same as though a member of this House should be assaulted upon his way home to-night by some one who had taken umbrage at something that he had done here. It was a personal attack made upon Ellison by Small. In defending himself from it, putting the best construction upon the matter possible, he killed the man. I submit, Mr. Speaker, that in that view of the case, and that is the most favorable view which can be taken, the United States Government can not possibly be liable for the costs of that trial.

But I want to call the attention of this House to another fact, and that is that this man Ellison had two trials before a jury of citizens here in the District of Columbia. The trials were about a year apart in point of time, so that any question of feeling arising out of the incident would have died out, and certainly one of those trials was a fair one. But in neither of those trials was Ellison able to gain an acquittal by a jury of his countrymen. And yet, on a case that was so questionable that two juries in the courts of the United States were unable to decide that this was even a case of self-defense, where the man was unable to show before two juries that the assault was not one for which he ought to have been punished, we have here a bill to pay $5,000 to this man for his own defense.

Let me say that the case was finally dismissed by the United States district attorney, and there never was an acquittal of this man in court. They bring here a letter of the judge before whom the case was tried, and the judge says he thinks it was a case of self-defense; as he remembers it, Ellison was lying on a sofa, and the man Small entered and made some demonstration, entered with threats, and Ellison jumped up and struck him with a piece of wood, from which blow he afterwards died.

Now, I submit that putting this case upon the most favorable hypothesis, putting it upon the hypothesis that the man was acting only in self-defense, there can be no question but what the assault was a personal one, for which the United States Government should in no case be liable or responsible. But putting it upon the facts as they appear in this record, we have the case of one man killing another under doubtful circumstances, under circumstances so questionable that twice a jury of his countrymen refused to acquit him, and yet the Government of the United States is asked to pay $5,000 for the cost of that trial—costs incurred by the man in his own defense. I submit, Mr. Speaker, that this bill ought not to pass. The Government ought not to be compelled to pay a cent on any such showing of facts as this.

Mr. SULZER. Mr. Speaker, this bill was before the Committee of the Whole House on the state of the Union last Friday. It was then briefly discussed, and the committee laid the bill aside with a favorable recommendation. In my opinion the bill is a just one, and I hope it will pass. Let me say this bill was introduced by my colleague, the late Amos J. Cummings. The claimant, Mr. George C. Ellison, was one of the most loyal and steadfast friends Amos J. Cummings ever had, and as a friend of Amos J. Cummings I am in favor of this bill. In my judgment any man in this House who will read the report or who is familiar with the facts in this case will favor this bill and vote for it. The record shows the equities are all with Mr. Ellison, and, as a matter of simple justice, he is entitled to this relief.

Mr. Speaker, the gentleman from Missouri has stated the facts in the case substantially, but partially, and only in a legal and technical way, like a lawyer for the defendant. It is true, however, that Mr. Ellison was for several years chief engineer of this Capitol. The life of every man in the Capitol during that time was in his hands. He was charged with the performance of the duty to look after the boilers and the engines in the engine room downstairs. He could not leave his post or run away without endangering human life.

He was faithful in the performance of that duty and stood heroically by his post when a man named Small, whom the Clerk of the House had discharged some time before on account of his drunken habits, and who had a grudge, without cause, against Ellison, and had threatened over and over again that the first opportunity he got he was going to kill Mr. Ellison. Small went down stairs one day, as the report shows, from the corridor of this Capitol, where he told several persons that he was going down stairs to kill Ellison. When he got into the engine room he threatened to kill Ellison, and Ellison retreated, and did not defend himself until he feared his life was in danger, and then, and not till then, did he act on the defensive by picking up a piece of wood and striking this man Small in self-defense. After this Small went away.

Nobody thought he was seriously injured. He was around the streets of Washington for several days afterwards, apparently intoxicated. Finally he was taken to a hospital and died. After his death in the hospital an examination was made and it was discovered that Small's skull was fractured. Mr. Ellison was accused and put on trial. He had two trials in the city of Washington and was discharged. A statement is made by Mr. Ellison of the cost of these trials, and it figures up to over $9,000. Mr. Ellison was finally acquitted, but the expenses of these trials made him a poor man. All the money he had saved by a life of industry and economy for years and years was spent in his defense. I desire to read as part of my remarks the items of his expenses on each trial:

Vouchers and accounts of George C. Ellison.

FIRST TRIAL.

WASHINGTON, D. C., *June, 1879.*

The following is a true itemized account of expenses incurred by George C. Ellison in defending himself while on trial for the alleged murder of David Small, in supreme court of the District. Case called May 2, 1877:

To Col. William A. Cook, chief counsel in case, including services of three medical experts in case	$1,450.00
To Joseph E. Hayden, associate in same case	800.00
To legal services in New York, H. B. Stanton	100.00
To legal services, Charles P. Shaw	100.00
To expenses in jail (seventy days)	250.00
To expenses of wife, sons, and daughters in coming to and returning from Washington, and boarding while here	250.00
To expenses telegraphing witnesses	47.00
To M. A. Clancy, professional stenographer, making verbatim reports	310.25
To securing ($12,000) bail and indemnifying surety	525.00
Mileage, witness fees, and board	992.09
First trial	4,824.34

SECOND TRIAL.

WASHINGTON, D. C., *June, 1879.*

The following is a true itemized account of expenses incurred by George C. Ellison in defending himself while on trial the second time for the alleged murder of David Small. Case called June 20, 1878:

To Col. W. A. Cook, chief counsel	$1,000.00
To Hon. Stephen L. Mayham, counsel	1,000.00
John Swinburn, M. D., expert	551.20
J. Harry Thompson, M. D., expert	500.00
D. W. Bliss, M. D., expert	250.00
Robert Reyburn, M. D., expert	250.00
W. S. Wells	250.00
S. A. H. McKimm	25.00
Wife, sons, and daughters' expenses to and from Washington, and board while here	250.00
Telegraphing witnesses	38.00
Professional stenographer, taking testimony ($250, not claimed)	00.00
Julius Veidt, account making diagram of engine rooms	52.00
To mileage and fees of witnesses and expenses of same	655.25
Second trial	4,821.45
First trial	4,324.34
Total	9,645.79

It made Ellison a bankrupt, and now, after years of suffering for doing his duty, in his declining years he only asks the Government to pay him $5,000, which I think is very reasonable and fair, just and right. If you will read the report you will find letters from some of the most distinguished men in this country saying Mr. Ellison acted in self-defense while in the performance of his office and only did his duty; and you will find a letter from Judge Andrew Wylie, the justice who presided at the trials—I think it is Exhibit No. 1—in which he says:

WASHINGTON, *March 22, 1880.*

MY DEAR SIR: Your favor, dated January 22 last, from the Ebbitt House, was never seen by me till this morning. It came to my house, doubtless, while I was at court and was mislaid.

I do not suppose that you desire that I should make a statement at length of the evidence or even of the facts which were proven on the trial of The United States *v.* Ellison. I shall therefore merely give at present the conclusion to which my mind was brought by the evidence in that case.

The defendant was tried for the murder of a man named Small. (I believe this was the name of the deceased.) Ellison's character had always been excellent, and at the time of the homicide he filled a place of confidence and trust at the Capitol. Small had previously been an employee there in a place subordinate to that of Ellison, and had been removed. He was a person of violent temper and intemperate habits. He thought Ellison had been instrumental in having him removed, and had made threats against the latter, which had been told to Ellison. One morning he entered Ellison's room at the Capitol and made demonstrations which, taken in connection with the threats, were well calculated to create alarm in Ellison for his personal safety.

Ellison sprang up from the sofa where he was lying, seized a billet of wood, and struck Small on the head. Small fell, but soon got up again and went away, no one supposing that the injury was fatal. He was drinking pretty hard for several days afterwards, but went about the city. It turned out that the skull had been fractured, and at the expiration, I think, of about nine days he died.

I thought, from all the evidence, that Mr. Ellison had good reasons for apprehending great bodily danger from the deceased, and that it was a case of justifiable homicide, and of that opinion was the jury.

It is always nearly a misfortune to be obliged to take human life even in self-defense, but in this instance I think Mr. Ellison should be held to have been without reproach.

Truly, yours,

ANDREW WYLIE.

Hon. S. L. MAYHAM.

The facts in the case conclusively prove that Mr. Ellison only did his duty and acted in self-defense, and no jury in the world would decide otherwise.

Mr. SHACKLEFORD. Where did Mr. Ellison live? Where was his home?

Mr. SULZER. I do not know. I am only discussing this case from the facts in the report, and from those facts I believe the bill is a just and meritorious measure.

Mr. SHACKLEFORD. Do you know whether the claim that you now present has the approval of the gentleman from New York—the watchdog of the Treasury in these cases?

Mr. SULZER. The gentleman is present. He can answer.

Mr. PAYNE. I will say to the gentleman that it has not the approval of "the gentleman from New York."

Mr. LIVINGSTON. Did you not vote for it in the Committee of the Whole the other evening?

Mr. PAYNE. I did not.

Mr. SULZER. I am informed that the gentleman did. But, however, I care nothing about that. I do not care whether the gentleman from New York [Mr. PAYNE] is in favor of the bill now or against it. I do know, nevertheless, that if Amos J. Cummings were here to present this claim to this House and fight for it, that the gentleman from New York would think twice before he would oppose it. [Laughter and applause.]

I say, and it can not be successfully denied, that it is the duty of the House of Representatives to protect and preserve the safety and efficiency of its officers and employees so long as they are acting in the line of their duties, or whenever they may be required, in great emergencies, to do acts not held or found to be unlawful, for their personal and official protection, while in the discharge of their duties, or to enable them to properly discharge such duties, and that such duty to protect and defend its officials and employees extends to the duty of reimbursing such officials and employees for any and all expenses properly and necessarily incurred in and about such duties, or lawful, or unusual and not unlawful, acts demanded by the exigencies of the situation for the proper and efficient discharge of their duties.

Mr. Speaker, just a few words more. It may be said, and I think the gentleman from Missouri did refer to it incidentally, that there is no precedent for this bill. Why, sir, the CONGRESSIONAL RECORD is full of similar precedents. In the report accompanying this bill is cited precedent after precedent where this House has paid the expenses of one of its officers or employees where he acted in the performance of his duty and incurred expense.

I will only cite now to gentlemen of this House the well-known case of Hallet Kilbourn, in which the Government reimbursed him for all the legal and incidental expenses he was put to in defending himself from charges brought against him while in the performance of his duty as an officer of this House; and so if the House votes down this bill it will establish another kind of a precedent that some time or other may come back to worry and annoy us, because as a matter of right and law the House ought to stand by every officer or employee who honestly, fearlessly, and faithfully does his duty; and if ever there was an officer of this House who honestly, fearlessly, and faithfully did his duty, in the face of grave danger, it was this brave and loyal man Ellison; and I hope there will be no man in this House so unjust, so unsympathetic, and so uncharitable as to refuse to reimburse him by giving him this small sum of $5,000. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. COWHERD. Mr. Speaker, how much time have I remaining?

The SPEAKER pro tempore. The gentleman has four minutes remaining.

Mr. COWHERD. Mr. Speaker, I have nothing to say in reply to the gentleman's statement as to what the late lamented Mr. Cummings would have said in regard to this bill. I suppose the members of this House will gauge their action on this claim by their own conscience, and not by that of any other gentleman, however distinguished.

I want to say this, that the gentleman from New York [Mr. SULZER] has not contradicted any one of the points I made in opposition to this measure. He cites the Hallet Kilbourn case, which, as my friend informs me—I was not familiar with it—was a case where the House ordered the arrest of a man, and in executing that order the man afterwards brought suit against the officer of the House and the House defended its own proceeding. This man was not defending the House, he was not defending the property of the House, and he was not in performance of his duty. This House had never given him any commission to kill anybody to protect himself. That is a right that came to him, not by law of this Congress, nor by the authority of the House. It was inherent in him; it is the same right that every man has, and if you pay him for defending his life, you ought to pay every other Government employee, no matter who or where he is, whenever he gets into trouble and presents a case of self-defense sufficient to hang a jury on. That is all there is in this case, and I submit it ought not to pass.

The SPEAKER pro tempore. The question is on ordering the bill to be engrossed and read a third time.

The question was taken; and on a division (called for by Mr. SULZER) there were—ayes 10, noes 81.

Mr. SULZER. Mr. Speaker, I ask unanimous consent to withdraw the bill.

Mr. SHACKLEFORD. I object, Mr. Speaker.

Mr. SULZER. I make the point of no quorum.

The SPEAKER pro tempore. That comes too late. The gentleman asked unanimous consent to withdraw the bill, which was objected to. That was a parliamentary act of the House. Other business has intervened, and it is too late now to make the point of no quorum.

ENROLLED BILLS SIGNED.

Mr. WACHTER, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

H. R. 16564. An act granting an increase of pension to James Hunter;

H. R. 288. An act for relief of the Christian Church of Henderson, Ky.;

H. R. 9360. For the improvement and care of Confederate Mound, in Oak Woods Cemetery, Chicago, Ill., and making an appropriation therefor; and

H. R. 12240. An act granting to Nellie Ett Heen the south half of the northwest quarter and lot 4 of section 2, and lot 1 of section 3, in township 154 north of range 101 west, in the State of North Dakota.

The SPEAKER announced his signature to enrolled bills of the following titles:

S. 7063. An act permitting the building of a dam across the St. Croix River at or near the village of St. Croix Falls, Polk County, Wis.;

S. 111. An act for the relief of William J. Smith and D. M. Wisdom;

S. 903. An act for the relief of William D. Rutan;

S. 679. An act directing the issue of a check in lieu of a lost check drawn by Capt. E. O. Fechet, disbursing officer, United States Signal Service Corps, in favor of Bishop Gutta-Percha Company;

S. 6034. An act raising the rank of Chief Engineer David Smith on the retired list of the Navy;

S. 5079. An act for the relief of George P. White;

S. 3555. An act for the relief of William Dugdale;

S. 1928. An act for the relief of G. H. Souder;

S. 3401. An act for the relief of H. Glafcke;

S. 1672. An act for the relief of Elisher A. Goodwin, executor of the estate of Alexander W. Goodwin;

S. 1206. An act for the relief of Frank J. Burrows;
S. 916. An act for the relief of Clara H. Fulford;
S. 661. An act authorizing the restoration of the name of Thomas H. Carpenter, late captain, Seventeenth United States Infantry, to the rolls of the Army, and providing that he be placed on the list of retired officers;
S. 1471. An act for the relief of Henry G. Rodgers;
S. 3317. An act authorizing the President to appoint Lieut. Robert Platt, United States Navy, to the rank of commander;
S. 3748. An act for the relief of M. L. Cobb, administrator of W. W. Cobb, deceased;
S. 4308. An act for the relief of Katie A. Nolan;
S. 5329. An act authorizing the President to appoint Lieut. Commander William P. Randall, retired, United States Navy, a commander on the retired list;
S. 5381. An act to correct errors in dates of original appointment of Capt. James J. Hornbrook and others;
S. 5724. An act for the relief of Paymaster James E. Tolfree, United States Navy;
S. 6104. An act to restore to the active list of the Navy the name of John Walton Ross;
S. 6278. An act to extend the provisions of chapter 8, Title XXXII, of the Revised Statutes of the United States, entitled "Reservation and sale of town sites on the public lands," to the ceded Indian lands in the State of Minnesota;
S. 6446. An act to provide for the construction of a bridge across the Rainy River in Minnesota;
S. R. 156. Joint resolution dedicating to the city of Columbus, in the State of Ohio, for uses and purposes of the public streets, part of property conveyed to the United States by Robert Neil by deed dated February 17, 1863, recorded in Deed Book 76, page 572, etc., Franklin County records;
S. R. 146. Joint resolution to extend the time for construction of the Akron, Sterling and Northern Railroad in Alaska; and
S. 4832. An act for the relief of Col. H. B. Freeman.

POST-OFFICE APPROPRIATION BILL.

Mr. LOUD. Mr. Speaker, I move that the House now resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the Post-Office appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. OLMSTED in the chair.

The CHAIRMAN. The House is now in Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16990, the Post-Office appropriation bill.

Mr. COWHERD. Mr. Speaker, I desire to yield to the gentleman from Missouri [Mr. ROBB].

Mr. ROBB. Mr. Chairman, a few days ago I had the pleasure of hearing the very interesting discussion by the gentleman from Ohio [Mr. GROSVENOR] and the gentleman from Missouri [Mr. CLARK] of the political tendency and the relative prospects of the two great parties, viewed in the light of the recent elections. The adherents of the respective parties represented by these gentlemen were bidden to be of good cheer and invited to confidently look forward to that great (and according to the gentleman from Missouri not unequal) contest in 1904. They were discussing the vote, and the situation as viewed from the vote, presuming, we are to infer, that in the next campaign there is to be no substantial change in the issues.

If the issues are to remain practically the same, as I believe they will, and if the prospects for Democratic success are encouraging, as I believe they are, it may be pertinent and important to inquire the cause of our defeat in recent campaigns. What was the cause? That is, what was it but for which Democratic success would have resulted?

Some may say it was popular disapproval of the Democratic position on the money question in 1896; some may say it was popular approval of the Republican policy of imperialism in 1900; but it was not because of either. I will tell you what it was that defeated Mr. Bryan in 1896 and again in 1900. During the campaign of 1896 Mr. Bryan said:

> I am glad that if I am elected there is not a trust or syndicate that can come to me and say, "We put you there; now pay us back." I am opposed to the trusts. As an Executive I shall use what power I have to drive every trust out of existence.

And again, in his letter of acceptance in 1900, he said:

> Our platform, after suggesting certain specific remedies, pledges the party to an unceasing warfare against private monopoly in nation, State, and city. I heartily approve of this promise. If elected, it shall be my earnest and constant endeavor to fulfill the promise in letter and spirit.
>
> I shall select an Attorney-General who will, without fear or favor, enforce existing laws; I shall recommend such additional legislation as may be necessary to dissolve every private monopoly which does business outside of the State of its origin.

The trusts knew that these were the words of one who would, if elected, carry them into execution. They knew that Democratic success meant trust extermination and Republican success meant trust perpetuation, and the trust, by throwing to the support of the Republican candidates all the power and influence which aggregated wealth and concentrated capital could command, succeeded in electing them. With the trusts and trust influence eliminated Republican success would have been impossible, and, although aided by all the power which the trust could command, had not the promises and pledges of the Republican party on the trust question—promises and pledges yet unredeemed and unfulfilled—deceived and misled thousands of voters, Democratic success would have been assured.

The cause of our defeat was the power of the trusts in American politics, as exemplified in their ability to manipulate and manage a great party in their own interests and so as to deceive a large body of our people. The trust question therefore rises in importance not alone as our industrial affairs are affected by the trusts, but as they affect our social and political system. It is the most important question which has or will come before this Congress. It is the most important before the American people to-day. It resolves itself into this: Is this to be a government of the trusts, by the trusts, and for the trusts?

The record of the Republican party on the trust question has been one of broken pledges and violated promises. Under it, and as the direct and responsible result of Republican legislation, the trusts received their first inspiration. Under it they were given life and have flourished. Under it they have been fostered and encouraged and have increased in strength and grown in numbers until they embrace nearly every important branch of our industries. They have been permitted to fasten themselves upon our industrial system until those exercising the powers of the Government stand hesitating and halting in pretended fear that the so-called business interest may be disturbed by an honest effort to enforce existing laws or enact new legislation. Still none are so bold as to stand upon the floor of this House and openly undertake to justify their existence; none who will say there is any necessity for their being or any benefits to be derived by the public or the country from their continuation, and few there are who doubt their great and dangerous power, threatening alike to the welfare of our people and to the institutions of our Government.

The modern trust is a new form of monopoly which sprung into existence in our country and, like all monopolies, is designed to destroy competition, control the product, and regulate and fix the price of the article. Mr. William H. Cook, in his book on trusts, in speaking of the combination known as a trust, said:

> It is neither a corporation or a well-defined common-law trust; it avoids the checks and safeguards which a wise public policy has thrown around corporate acts; its articles of agreement are secret, and jealously guarded even from the inventor himself; no charter or statements need be filed for public inspection; no reports need be made or published; it may carry on any business it desires; the principles of ultra vires acts do not check it; no limit is placed by statute on the capital stock; no law prevents an increase or decrease of the trust certificates; no qualifications are prescribed for its trustees; no tax is laid on the franchises or capital stock; it may move from State to State; it may, and does, evade taxation, and defies the power of the courts; it wields vast sums of money, secretly, instantaneously, and effectually to accomplish its nefarious ends; and it does all this, not for the advancement of the country and the nation, but for the purposes of extortion and for the annihilation of independent firms. (Cook on Trusts, p. 53.)

And further on he says:

> It is a monopoly, and the most cruel, the most harsh, and the most detestable of all monopolies. It presses hardest on those who are least able to pay its exactions. It is a grievous burden which is borne, not by the rich and powerful, but by the poor and weak. It is a monopoly in the necessaries of life, in those things which render possible the daily existence and comfort of the farmer, the mechanic, and the laboring man. * * * It is a monstrous wrong. It is a wrong which never has been and (we trust) never will be endured by an English-speaking people. (Id., p. 55.)

The legislation against the trusts has nearly all been enacted within the last ten or fifteen years, for the obvious reason that prior to that time the trusts had not made their appearance as a disturbing factor in our industrial affairs. Monopoly in whatever form it appeared, always odious, always injurious, always illegal and criminal, was dealt with by the courts under the principles of the common law. In 1889 thirteen States passed antitrust provisions. Kansas, Maine, Michigan, Missouri, Nebraska, North Carolina, Tennessee, and Texas exacted statutes upon the subject, and the new States of Idaho, Montana, North Dakota, Washington, and Wyoming adopted constitutional provisions.

Following them came five more States and one Territory with statutory enactments in 1890, viz, Iowa, Kentucky, Louisiana, Mississippi, South Dakota, and the Territory of Oklahoma. Then in 1891 Alabama, Illinois, Minnesota, and the Territory of New Mexico, and in 1893 New York, Wisconsin, California, and Nebraska enacted antitrust laws, and many other States have since followed with similar enactments. So that we have in a large majority of the States of the Union antitrust provisions, either statutory or constitutional, designed for the prevention of the trusts. What does this all indicate but that the people in every section of our country were becoming disturbed and alarmed at the

growth of monopoly and were determined to supplement the provisions of the common law with whatever power they possessed to prevent its taking a firm hold on American soil?

Prior to the advent of the trusts the courts had not been slow in putting the seal of their condemnation on all forms of private monopoly. Always and everywhere they saw in them the selfish and grasping hand of greed, with no other or better purpose than to filch from the public that to which in justice they were not entitled. I desire as a part of my remarks to insert excerpts from a few of these decisions, to show that the courts have uniformly held that combinations, the design and effect of which are to give the persons combining a monopoly in the manufacture, sale, or control of a commodity, are unlawful and against public policy and that all contracts and agreements for such purpose were illegal and void at common law. In the case of Leslie *v.* Lorillard (110 N. Y., 533) the court said:

Corporations are great engines for the promotion of the public convenience and for the development of public wealth, and so long as they are conducted for the purposes for which organized they are a public benefit; but if allowed to engage, without supervision, in subjects of enterprise foreign to their charters or if permitted unrestrainedly to control and monopolize the avenues to that industry in which they are engaged they become a public menace, against which public policy and statutes design protection.

In this case it is declared that they become a public menace by being permitted to control and monopolize unrestrainedly an industry.

In the case of Morris Run Coal Company *v.* Barclay Coal Company (68 Penn. St., 173), five companies engaged in operating coal mines combined together for the purpose of governing the supply and price of coal. Agnew, J., in delivering the opinion of the court, said:

The effects produced on the public interests lead to the consideration of another feature of great weight in determining the illegality of the contract, to wit, the combination resorted to by these five companies. Singly each might have suspended deliveries and sales of coal to suit its own interests, and might have raised the price, even though this might have been detrimental to the public interest.

There is a certain freedom which must be allowed to everyone in the management of his own affairs When competition is left free, individual error or folly will generally find a correction in the conduct of others. But here is a combination of all the companies operating in the Blossburg and Barclay mining regions, and controlling their entire production. They have combined together to govern the supply and the price of coal in all the markets from the Hudson to the Mississippi rivers, and from Pennsylvania to the lakes. This combination has a power in its confederated form which no individual action can confer.

The public interest must succumb to it, for it has left no competition free to correct its baleful influence. When the supply of coal is suspended the demand for it becomes importunate, and prices must rise. Or if the supply goes forward, the price fixed by the confederates must accompany it. The domestic hearth, the furnaces of the ironmaster, and the fires of the manufacturer all feel the restraint, while many dependent hands are paralyzed and hungry mouths stinted. The influence of a lack of supply or the rise in the price of an article of such prime necessity can not be measured. It permeates the entire mass of community and leaves few of its members untouched by its withering blight. Such a combination is more than a contract—it is an offense.

In Salt Company *v.* Guthrie (35 Ohio, 672), McIlvaine, C. J., says:

Public policy unquestionably favors competition in trade, to the end that its commodities may be afforded to the consumer as cheaply as possible, and is opposed to monopolies, which tend to advance market prices to the injury of the general public. We think the contract before us should not be enforced. By it all the salt manufacturers (with one or two exceptions) in a large salt-producing territory, and whose aggregate annual product is about 140,000 barrels, have combined for the expressed purpose of regulating the "price and grade of salt." A board of directors is chosen. All salt made or owned by the members, as soon as packed into barrels, is placed under the control of the directors. "The manner and time of receiving and distributing salt shall be under the control of the directory."

"Each member of the association binds himself to sell salt only at retail, and then only to actual consumers, at the place of manufacture and at such prices as may be fixed by the directors from time to time." The directors make monthy reports of sales and pay over the proceeds to the members in proportion to the amount of salt received from each. The clear tendency of such an agreement is to establish a monopoly and to destroy competition in trade, and for that reason, on grounds of public policy, courts will not aid in its enforcement. It is no answer to say that competition in the salt trade was not in fact destroyed, or that the price of the commodity was not unreasonably advanced. Courts will not stop to inquire as to the degree of injury inflicted upon the public; it is enough to know that the inevitable tendency of such contracts is injurious to the public.

In Alger *v.* Thacher (19 Pick., 51), Morton, J., enumerates among others the grounds that invalidate contracts in restraint of trade, the following:

Fourth. They prevent competition and enhance prices.

Fifth. They expose the public to all the evils of monopoly. And this is especially applicable to wealthy companies and large corporations, who have the means, unless restrained by law, to exclude rivalry, monopolize business, and engross the market. Against evils like these, wise laws protect individuals and the public by declaring all such contracts void.

Many other cases might be cited, not only showing the almost universal condemnation of monopoly by the courts, as being in restraint of trade and subversive of the liberty of the citizen, but the above are sufficient. I desire, however, to refer to a celebrated case and a leading decision decided by the supreme court of Michigan in the case of David M. Richardson *v.* C. H. Buhl and Russell A. Alger, 77 Mich., 632. Inasmuch as the gentleman from Ohio [Mr. GROSVENOR] denied that Russell A. Alger ever owned a cent of stock in the Diamond Match Company, I want to state that in that case he was not only a party but testified as a witness that the object of the combination was to control prices.

The court found that the combination formed by the Diamond Match Company was unlawful, and declared that a corporation organized for the purpose of controlling the manufacture and sale of matches, and crushing out all competition and opposition was a menace to the public. Chief Justice Sherwood, in that case, said:

Monopoly in trade or in any kind of business in this country is odious to our form of government. It is sometimes permitted to aid the Government in carrying on a great public enterprise or public work, under Government control, in the interest of the public. Its tendency is, however, destructive of free institutions and repugnant to the instincts of a free people and contrary to the whole scope and spirit of the Federal Constitution, and is not allowed to exist under express provisions in several of our State constitutions.

Indeed, it is doubtful if free government can long exist in a country where such enormous amounts of money are allowed to be accumulated in the vaults of corporations, to be used at discretion in controlling the property and business of the country against the interests of the public and that of the people for the personal gain and aggrandizement of a few individuals. It is always destructive of individual rights and of that free competition that is the life of business, and it invites and perpetuates one of the great evils which it was the object of the framers of our form of government to eradicate and prevent.

It is alike destructive to both individual enterprise and individual property, whether conferred upon corporations or individuals, and, therefore, public policy is, and ought to be, as well as public sentiment, against it. All combinations among persons or corporations for the purpose of raising or controlling the prices of merchandise, or of any of the necessaries of life, are monopolies and intolerable, and ought to receive the condemnation of all courts.

From Michigan to Florida and from Maine to California protest against the monopolizing of our great industries had not only been made, but had found expression in the legislative will and in judicial decision. It was under these circumstances that what is known as the Sherman antitrust law was born. From the close of the civil war, for a quarter of a century and more as the result of Republican policies and Republican legislation, the wealth of the country has been steadily diverted from the many and concentrated in the hands of the few.

A moneyed aristocracy had arisen and rapidly grown in power until it assumed to control not only our great industries but the Government itself. All the evils of a strong, centralized, and consolidated power were not only threatened but had actually been felt. The States were powerless to afford full and complete relief. Their authority could not be extended beyond State boundaries. The discrimination by, and merging the interests of, great railroads, and the consolidation of great manufacturing and producing establishments operating in numerous States and over a wide territory were beyond their control. In response to a public demand as well as a public necessity Congress in 1887 enacted the interstate commerce law for the regulation of railroads doing an interstate business and of preventing discriminations and unreasonable charges.

Three years later, on July 2, 1900, the act entitled "An act to protect trade and commerce against unlawful restraints and monopolies" was approved and became a law. This is what is called the Sherman antitrust law, although it is said the distinguished gentleman whose name it bears had very little to do with the enactment of the law and that he failed and refused to vote for the bill on its final passage. I desire here to insert the law as a part of my remarks.

An act to protect trade and commerce against unlawful restraints and monopolies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SEC. 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties

complained of shall have been duly notified of such petition, the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

SEC. 5. Whenever it shall appear to the court before which any proceeding under section 4 of this act may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpœnas to that end may be served in any district by the marshal thereof.

SEC. 6. Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

SEC. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.

SEC. 8. That the word "person," or "persons," wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, or the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

It is a notorious and much to be regretted fact that this measure has not afforded the relief to which the people were entitled and which they had a right to expect. It has remained, except in a few instances, practically a dead letter upon the statute books. If it is claimed that it is weak and inefficient, it can at least be said of it that it has stood for more than twelve years unamended and as a silent monument of the conditions which brought it forth and a living testimonial of the indisposition of those having the power to do so to amend, improve upon, or enforce its provisions. If the law is a good one why has it not been enforced? If it is defective why has it not been amended so as to make it effective?

More trusts, exercising greater powers for evil, have been formed during the last six years than in all the history of the country before. The conditions demanding relief have grown in urgency and in importance and still no relief has been or is likely to be granted. The responsibility must rest with the Republican party, which has been in complete and absolute control of all departments of the Government. Even now after all the talk of antitrust legislation by this Congress the trusts do not seem to be alarmed. The following appeared in the Washington (D. C.) Post of January 12, 1903:

TRUSTS NOT ALARMED.

There was a rapidly advancing stock market last week while Congress was struggling, with more apparent sincerity than has been the case in recent years, to frame legislation for the control of the trusts by the Federal Government. The fact that the markets did not suffer sharp declines on the publication of the Administration bill for controlling the trusts and upon the repeated reports that President Roosevelt will call an extra session of Congress if antitrust legislation is not enacted during the life of the present Congress, indicates one of two things: That Wall street believes the whole antitrust programme to be a bluff, or else that the leaders of finance believe that the proposed legislation, if enacted into law, will not seriously interfere with their business plans.

This security on the part of the trusts can not be justified upon any idea of the lack of power in Congress to deal effectively with them. The President, the Attorney-General, and the Supreme Court have all decided that Congress has plenary power. The old contention in favor of a constitutional amendment, which party exigencies brought forth, having served its purpose, has been laid aside. It is simply a question, in the matter of legislation, as it is in the enforcement of existing law, of the exercise of the power.

I believe, by a proper exercise of the power given under the present law and vigorous and determined prosecutions, many of the trusts against which public attention and public censure is now directed, would have been destroyed, and that many more which have been formed would never have had any existence. At the same time I do not wish to be understood as contending that the law is a perfect and complete one. I think it is far from it, and that it ought to be extended, enlarged, and improved upon by amendment or supplemental provisions, so as to facilitate and render more certain prosecutions under it.

But of the few cases which have been prosecuted and which have reached the Supreme Court of the United States good results in at least some of them have followed. The act of July 2, 1900, has not been before the Supreme Court in but few cases, namely: United States *v.* E. C. Knight Company, 156 U. S., 1; United States *v.* Trans-Missouri Freight Association, 166 U. S., 290; United States *v.* Joint Traffic Association, 171 U. S., 505; United States *v.* Hopkins, 171 U. S., 578; Anderson *v.* United States, 171 U. S., 604, and Addyston Pipe and Steel Company *v.* United States, 175 U. S., 211.

In the Trans-Missouri Freight Association and Joint Traffic Association cases, two of the most gigantic combinations ever known, designed to fix and regulate freight rates, were destroyed. In the Addyston Pipe and Steel Company case, six establishments engaged in making cast-iron pipe for gas, water, and sewer purposes, and controlling the market in that commodity in 36 States, entered into a combination to control prices by suppressing competition among themselves, the court sustained the suit of the United States to enjoin them as being in violation of the antitrust law. The effect of the decision in the Knight case, otherwise known as the Sugar Trust case, is considered by some to leave nothing in the antitrust act for the Government to stand upon. Indeed, this seems to be the opinion of the Attorney-General, for in his Pittsburg speech, after reviewing the case, he says:

These cases seem to define the scope of the antitrust law and show how little there is now left for the statute to operate upon.

The court held in the Sugar Trust case that a combination to control manufacture or production which did not necessarily and directly affect interstate commerce was not within the provisions of the act. It was held upon the evidence in that case that the combination only related to manufacture and not to commerce. The Government seems to have rested its case upon the idea that the control of the manufacture necessarily involved the control of its disposition and operated in restraint of interstate commerce, without offering any evidence relating to the disposition of the manufactured article. It is possible that that case failed on account of the failure to submit the evidence which might have been obtained. In fact, the court said in that case:

There was nothing in the proofs to indicate any intention to put a restraint upon trade or commerce, and the fact, as we have seen, that trade or commerce might be indirectly affected was not enough to entitle complainants to a decree.

And the Supreme Court, in the Addyston Pipe decision, in commenting on this case, said:

The direct purpose of the combination in the Knight case was the control of the manufacture of sugar. There was no combination or agreement, in terms, regarding the future disposition of the manufactured article; nothing looking to a transaction in the nature of interstate commerce. The probable intention on the part of the manufacturer of the sugar to thereafter dispose of it by sending it to some market in another State was held to be immaterial and not to alter the character of the combination.

The various cases which had been decided in this court relating to the subject of interstate commerce, and to the difference between that and the manufacture of commodities, and also the police power of the States as affected by the commerce clause of the Constitution, were adverted to, and the case was decided upon the principle that a combination simply to control manufacture was not a violation of the act of Congress, because such a contract or combination did not directly control or affect interstate commerce, but that contracts for the sale and transportation to other States of specific articles were proper subjects for regulation, because they did form part of such commerce.

An examination of the decisions will disclose that each case is dependent upon its own peculiar facts and circumstances, and, as was stated in the opinion in the Addyston Pipe case:

All the facts and circumstances are, however, to be considered in order to determine the fundamental question—whether the necessary effect of the combination is to restrain interstate commerce.

It was said in that case:

The commodity may not have commenced its journey and so may still be completely within the jurisdiction of the State for purposes of State taxation, and yet at that same time the commodity may have been sold for delivery in another State. Any combination among dealers in that kind of commodity which in its direct and immediate effect forecloses all competition and enhances the purchase price for which such commodity would otherwise be delivered at its destination in another State would, in our opinion, be one in restraint of trade or commerce among the States, even though the article to be transported and delivered in another State were still taxable at its place of manufacture.

And again:

Where the contract is for the sale of the article and for its delivery in another State, the transaction is one of interstate commerce, although the vendor may have also agreed to manufacture it in order to fulfill his contract of sale. In such case a combination of this character would be properly called a combination in restraint of interstate commerce, and not one relating only to manufacture.

The most modern trust has taken the form of a single corporation. A consolidation of several corporations into one, in the effort to evade and escape the provisions of antitrust laws. Some have thought that under this new device it was impossible to reach them—that being a single corporation it could not conspire and combine with itself to restrain trade, and that it would escape the prohibitions and penalties of all laws against monopoly, both State and Federal. But the courts so far have held otherwise. The Illinois supreme court in the case of Ford *v.* Milk Shippers' Association (155 Ill., 166), in which it was insisted that being a corporation it could not violate the statute of that State, replied:

The corporation, as an entity, may not be able to create a trust or combination with itself, but its individual shareholders may in controlling it, together with it, create such trust or combination that will constitute it with them alike guilty.

And the St. Louis (Mo.) court of appeals in the case of National Lead Company *v.* S. E. Grote Paint Company, which came under the antitrust law of that State in a unanimous opinion, written by Judge Bond, said:

It must follow that if the stockholders and governing officers of the plaintiff corporation combined with each other to violate any of the provisions of the section under review through the instrumentality of their corporate

entity, then the corporation composed by them was a party to such illegal combination within both the letter and the spirit of the above section of the act of 1891. Or, correctly stated, that a combination which is illegal under the antitrust law can not be operated under the cloak of a corporation, and by its constituent members or governing bodies.

There are a number of other cases to the same effect.

There are those who, recognizing the evils of trusts, say they can not and will not be suppressed; that they are here to stay; that the most we can do is to endeavor to regulate and restrain them in the commission of wrong within endurable degrees and tolerable bounds. What does this mean, if true, but that a condition has arisen in our country which many of us feared might arise, when the trusts, the combined power of consolidated and centralized wealth, was stronger than the Government itself. I am not ready to believe that this condition has yet arisen, but I look forward to the future with apprehension if all the powers of the Federal and State governments are not speedily exercised.

Section 8 of Article I of the Constitution of the United States gives to Congress the power to "regulate commerce with foreign nations and among the several States and with the Indian tribes" and "to make all laws which shall be necessary and proper for carrying into execution the foregoing" power. The Supreme Court of the United States, in speaking of this power in the Addyston Pipe case, said:

The power to regulate interstate commerce is, as stated by Chief Justice Marshall, full and complete in Congress, and there is no limitation in the grant of the power which excludes private contracts of the nature in question from the jurisdiction of that body. Nor is any such limitation contained in that other clause of the Constitution which provides that no person shall be deprived of life, liberty, or property without due process of law.

And further on in the same case they said:

If Congress has not the power to legislate upon the subject of contracts of the kind mentioned, because the constitutional provision as to the liberty of the citizen limits to that extent its power to regulate interstate commerce, then it would seem to follow that the several States have that power, although such contracts relate to interstate commerce and more or less regulate it. If neither Congress nor the State legislatures have such power, then we are brought to the somewhat extraordinary position that there is no authority, State or national, which can legislate upon the subject of or prohibit such contracts. This can not be the case.

The power which we have is a full, complete, and perfect power. We can, if we will, so legislate as to drive every trust out of existence. Every means should be adopted to accomplish that end.

The great question with which we have to deal should be approached with a firm determination to do something and to accomplish something. We should not approach it in a spirit of timidity.

Mr. Chairman, the report accompanying the bill which has been reported by the majority party in this House is more than half apologetic to the wrongdoers against whom we are supposed to be legislating.

The bill is an able effort to do no harm and little good. It comes to us as the combined wisdom of the Administration and those specially selected for its preparation, of how to legislate and do nothing. The great bill which has been in prospect so long and about which so much has been said has been laid before this House. "The mountain has been in labor and brought forth a mouse."

While I intend to vote for the bill, I hope to see it amended so as to make it more far-reaching and effective. The amendments proposed by the minority members of the committee should be adopted. The publicity provisions should be made to apply to all corporations—those heretofore as well as those hereafter organized—and not simply those hereafter organized, as provided in the bill.

If publicity is offered as a panacea, why let the great trusts of to-day escape it? A more detailed inquiry into the affairs of the corporation should be made and penalties should be provided for failure to make the return, in addition to authorizing suit to be brought to restrain them from doing an interstate business. Section 6 should be amended so as to apply to any other association of individuals monopolizing the manufacture and sale of any commodity. As the section now stands it only includes corporations.

It should be further amended so as to deny to any corporation or association or person violating any of the provisions of this act or the antitrust act of July 2, 1890, not only "the facilities or instrumentalities of interstate commerce," but in explicit and express terms the facilities of the mails, the telegraph, and the telephone. In addition to these and other amendments suggested by the minority members of the committee, I would require from every corporation or association of persons doing an interstate business, as a part of its return, a statement showing whether it was or was not a member of any combination or party to any contract or agreement such as is prohibited by the act of July 2, 1890.

It is beyond my comprehension how anyone who is honestly and sincerely in favor of any legislation against the trusts can persuade himself to vote against the following amendment, proposed by the minority:

SEC. —. The President is hereby authorized, and it shall be his duty, whenever it shall be shown to his satisfaction that by reason, wholly or materially, of the existence of the tariff or customs duty upon any article, such article, or articles of its class and kind are monopolized or controlled by any person, organization, or combination to the detriment of the public, by proclamation to remove or suspend such duty, in whole or in part, until the next assembling of Congress, or until the abuse prompting him to such action shall have ceased.

If this amendment should be adopted, what a splendid opportunity it would afford our President to put in force his oft-repeated expression that "words should be backed up by deeds."

Senator John Sherman, in speaking on the antitrust bill on March 21, 1890, said:

If the combination is aided by our tariff laws, they should be promptly changed, and if necessary equal competition with all the world should be invited in the monopolized article.

And again, in the same speech, he said:

The people pay high taxes on the foreign article to induce competition at home in the hope that the price may be reduced by competition and with the benefit of diversifying our industries and increasing the common wealth.

But the competition at home, which it was hoped might reduce prices, has been stifled by the trusts, and the prices which our own people are required to pay are higher than the people of foreign countries pay for the same commodities manufactured, exported, and sold to them by our home-grown and home-supported trusts.

Great as are our diversified industries, the opportunities for independent enterprises are swiftly and surely being restricted and withdrawn by these giants of monoply, and the people are being reduced to a condition of dependence and industrial servitude. Let the international barriers to competition from abroad be withdrawn, where competition has been artificially restricted or destroyed at home, and we will have done much toward solving the trust problem.

Mr. Chairman, I am not opposed to corporations. I am not opposed to the legitimate combination of capital for the purpose of carrying on great enterprises; but it is quite a different proposition when it comes to allowing the few, by means of the devices of shrewd and designing men, to lay unjustly their heavy hand on the property of the many. And that is what the trust does.

Judge Black, of Pennsylvania, in graphic language described the trusts as inventions to increase the power of the monopolist and "through which his felonious fingers are made long enough to reach into the pockets of posterity, so that he lays his lien on property yet uncreated, anticipates the labor of coming ages, coins the industry of future generations into cash, and snatches the inheritance from children whose fathers are unborn." [Applause.]

Mr. Chairman, I would have the trusts go, and not be ceremoneous about their leave-taking. I would have American politics and American industries lifted above and beyond the control of monopoly. I would have the country return to that great principle in all just governments—that great doctrine of Democracy, of "Equal rights to all men and special privileges to none." [Loud applause on the Democratic side.]

Mr. LOUD. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and Mr. BOUTELL, Speaker pro tempore, having taken the chair, Mr. OLMSTED, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had instructed him to report that it had further considered House bill 16990, the Post-Office appropriation bill, and had come to no resolution thereon.

And then, on motion of Mr. LOUD (at 5 o'clock and 10 minutes p. m.), the House adjourned until to-morrow at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following executive communications were taken from the Speaker's table and referred as follows:

A letter from the receiver of the City and Suburban Railway, transmitting the report of the railway for the year 1902—to the Committee on the District of Columbia, and ordered to be printed.

A letter from the vice-president of the Columbia Railroad Company, transmitting the report of the company for the year 1902—to the Committee on the District of Columbia, and ordered to be printed.

A letter from the vice-president of the Brightwood Railway Company, transmitting the report of the company for the year 1902—to the Committee on the District of Columbia, and ordered to be printed.

A letter from the vice-president of the Georgetown and Tennallytown Railway Company, transmitting the report of the company for the year 1902—to the Committee on the District of Columbia, and ordered to be printed.

A letter from the vice-president of the Metropolitan Railroad Company, transmitting the report of the company for the year 1902—to the Committee on the District of Columbia, and ordered to be printed.

A letter from the vice-president of the Anacostia and Potomac River Railroad Company, transmitting the report of the company for the year 1902—to the Committee on the District of Columbia, and ordered to be printed.

A letter from the vice-president of the Washington Railway and Electric Company, transmitting the report of the company for the year 1902—to the Committee on the District of Columbia, and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the several Calendars therein named, as follows:

Mr. COOPER of Wisconsin, from the Committee on Insular Affairs, to which was referred the bill of the Senate (S. 7124) to provide for the removal of persons accused of crime to and from the Philippine Islands for trial, reported the same with amendment, accompanied by a report (No. 3478); which said bill and report were referred to the House Calendar.

Mr. BURTON, from the Committee on Rivers and Harbors, reported a bill of the House (H. R. 17243) to amend "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved June 13, 1902 (in lieu of H. R. 16339), accompanied by a report (No. 3479); which said bill and report were referred to the House Calendar.

Mr. KEHOE, from the Committee on War Claims, to which was referred the bill of the House (H. R. 16133) to extend the time for presentation of claims under the act entitled "An act to reimburse the governors of States and Territories for expenses incurred by them in aiding the United States to raise and organize and supply and equip the Volunteer Army of the United States in the existing war with Spain," approved July 8, 1898, and under acts amendatory thereof, reported the same without amendment, accompanied by a report (No. 3480); which said bill and report were referred to the House Calendar.

Mr. BURTON, from the Committee on Rivers and Harbors, to which was referred the bill of the House (H. R. 17170) to amend an act entitled "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved June 13, 1902, reported the same without amendment, accompanied by a report (No. 3481); which said bill and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions of the following titles were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. HENRY C. SMITH, from the Committee on War Claims, to which was referred the bill of the House (H. R. 17164) for the relief of Arra M. Farnsworth, reported the same without amendment, accompanied by a report (No. 3474); which said bill and report were referred to the Private Calendar.

Mr. CALDWELL, from the Committee on War Claims, to which was referred the bill of the House H. R. 14368, reported in lieu thereof a resolution (H. Res. 424) referring to the Court of Claims the papers in the case of Willoughby L. Wilson, administrator of the estate of Willoughby Wilson, deceased, accompanied by a report (No. 3475); which said resolution and report were referred to the Private Calendar.

He also, from the same committee, to which was referred the bill of the House H. R. 16798, reported in lieu thereof a resolution (H. Res. 425) referring to the Court of Claims the papers in the case of Sampson Kinna, accompanied by a report (No. 3476); which said resolution and report were referred to the Private Calendar.

Mr. SPIGHT, from the Committee on War Claims, to which was referred the bill of the House H. R. 16577, reported in lieu thereof a resolution (H. Res. 426) for the relief of Mrs. G. W. Ross et al., accompanied by a report (No. 3477); which said resolution and report were referred to the Private Calendar.

Mr. PARKER, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 16105) authorizing the President to reinstate Alexander G. Pendleton, jr., as a cadet in the United States Military Academy, reported the same without amendment, accompanied by a report (No. 3483); which said bill and report were referred to the Private Calendar.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS INTRODUCED.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. SCARBOROUGH: A bill (H. R. 17238) amendatory of an act entitled "An act to provide for a permanent Census Office," approved March 6, 1902—to the Select Committee on the Census.

By Mr. CREAMER: A bill (H. R. 17239) in relation to a monument to the memory of James Monroe, fifth President of the United States, to be erected at the Fifth avenue main entrance to the Central Park, New York City—to the Committee on the Library.

Also, a bill (H. R. 17240) in relation to a monument to the memory of James Monroe, fifth President of the United States, to be erected at the Fifth avenue main entrance to the Central Park, New York City—to the Committee on the Library.

By Mr. BROUSSARD: A bill (H. R. 17241) to authorize the Upper Teche Deep Water Association to dredge Bayou Teche, in the State of Louisiana, between Breaux Bridge and Port Barre—to the Committee on Rivers and Harbors.

By Mr. SLAYDEN: A bill (H. R. 17242) to aid in the suppression of the bubonic plague in Mexico, and to prevent its spread to the United States—to the Committee on Foreign Affairs.

By Mr. BURTON, from the Committee on Rivers and Harbors: A bill (H. R. 17243) to amend "An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes," approved June 13, 1902, in lieu of H. R. 16339—to the House Calendar.

By Mr. COOPER of Wisconsin: A bill (H. R. 17244) to provide for the removal of persons accused of crime to and from the Philippine Islands for trial—to the Committee on Insular Affairs.

By Mr. SULZER: A joint resolution (H. J. Res. 261) making appropriation for site and the erection of a pedestal for a bronze statue in Washington, D. C., in memory of the late Hon. Amos J. Cummings—to the Committee on the Library.

By Mr. GREENE of Massachusetts: A concurrent resolution (H. C. Res. 83) authorizing the appointment of a joint committee to investigate our international navigation policy, to trace its effect upon our merchant marine, to consider how to encourage it and regain our lost carrying trade, and to report a constitutional remedial measure to the Fifty-eighth Congress—to the Committee on Rules.

By Mr. CALDWELL, from the Committee on War Claims: A resolution (H. Res. 424) referring the claim of Willoughby L. Wilson to the Court of Claims—to the Private Calendar.

Also, from the same committee: A resolution (H. Res. 425) referring to the claim of Sampson Kinna to the Court of Claims—to the Private Calendar.

By Mr. SPIGHT, from the Committee on War Claims: Resolution (H. Res. 426) referring to the Court of Claims H. R. 16577—to the Private Calendar.

By Mr. KERN: A resolution (H. Res. 427) calling for certain information from the Secretary of War—to the Committee on Interstate and Foreign Commerce.

By Mr. CURTIS: A resolution (H. Res. 428) to continue pay of messenger in charge of heavy mail wagon—to the Committee on Accounts.

By Mr. COOPER of Wisconsin: A resolution (H. Res. 429) for the consideration of S. 7124, to provide for the removal of persons accused of crime to and from the Philippine Islands for trial—to the Committee on Rules.

By Mr. BOWERSOCK: A concurrent resolution of the Kansas legislature requesting the naming of a United States battle ship "Kansas"—to the Committee on Naval Affairs.

PRIVATE BILLS AND RESOLUTIONS INTRODUCED.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BENTON: A bill (H. R. 17245) granting an increase of pension to Perry C. Watson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17246) granting a pension to George Washington Baldwin—to the Committee on Invalid Pensions.

By Mr. CONNER: A bill (H. R. 17247) granting a pension to Mary H. Rumple—to the Committee on Invalid Pensions.

By Mr. DOVENER: A bill (H. R. 17248) granting a pension to J. P. Fox—to the Committee on Invalid Pensions.

By Mr. GILLETT of Massachusetts: A bill (H. R. 17249) granting an increase of pension to Wilbur M. Fay—to the Committee on Invalid Pensions.

By Mr. KAHN: A bill (H. R. 17250) granting a pension to Mary E. McKinnon—to the Committee on Pensions.

By Mr. MAHON: A bill (H. R. 17251) granting an increase of pension to John W. Silks—to the Committee on Invalid Pensions.

By Mr. MUDD: A bill (H. R. 17252) granting an increase of pension to William R. Laws, alias William Lewis—to the Committee on Invalid Pensions.

By Mr. SMITH of Kentucky: A bill (H. R. 17253) for the relief of the estate of B. J. Stoner, deceased—to the Committee on War Claims.

By Mr. WM. ALDEN SMITH: A bill (H. R. 17254) granting a pension to Thomas Scarvell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 17255) granting an increase of pension to Morris M. Comstock—to the Committee on Invalid Pensions.

By Mr. TIRRELL: A bill (H. R. 17256) authorizing the Secretary of the Treasury to pay to Joel H. Simonds the bounty authorized under the act of Congress approved July 28, 1866—to the Committee on War Claims.

By Mr. VAN VOORHIS: A bill (H. R. 17257) to correct the military record of the late Henry G. Thomas—to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. BENTON: Petition of retail druggists of Southwest City, Nev., and Sheldon, Mo., in favor of House bill 178, for reduction of tax on distilled spirits—to the Committee on Ways and Means.

Also, resolutions of Ministerial Alliance, of Monett, Mo., for the passage of a bill to forbid the sale of intoxicating liquors in all Government buildings—to the Committee on Alcoholic Liquor Traffic.

Also, papers to accompany House bill granting an increase of pension to Perry C. Watson—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting a pension to Walter P. Mitchell—to the Committee on Invalid Pensions.

Also, papers to accompany House bill granting a pension to George Washington Baldwin—to the Committee on Invalid Pensions.

By Mr. BURTON: Resolutions of Cleveland City Lodge, No. 33, Sons of Benjamin, of Cleveland, Ohio, relating to methods of the immigration bureau at the port of New York—to the Committee on Immigration and Naturalization.

By Mr. BOWERSOCK: Petition of retail druggists of Lawrence, Kans., favoring House bill 178—to the Committee on Ways and Means.

Also, petitions of the Baptist Church and United Presbyterian Church of Garnett, Kans., to prohibit liquor selling in Government buildings—to the Committee on Alcoholic Liquor Traffic.

By Mr. BROMWELL: Sundry petitions of various firms and their employees, and other citizens of Cincinnati, Ohio, and vicinity, for the improvement of the Ohio River from Pittsburg to Cairo—to the Committee on Rivers and Harbors.

By Mr. DOUGHERTY: Petitions of Mayor W. T. Shoop, of Richmond, Mo., and citizens of Excelsior Springs, Gallatin, and postmaster of Cameron, Mo., for the extension of the free-delivery service to cities whose postal receipts are $5,000 or more per annum—to the Committee on the Post-Office and Post-Roads.

Also, four petitions of retail druggists of Hamilton, Modena, Cameron, and Cainsville, Mo., urging the reduction of the tax on alcohol—to the Committee on Ways and Means.

By Mr. DOVENER: Papers to accompany bill for a pension to John P. Fox—to the Committee on Invalid Pensions.

By Mr. EVANS: Papers to accompany House bill 15825, to remove the charge of desertion against the military record of John H. Arford—to the Committee on Military Affairs.

By Mr. FITZGERALD: Petition of New York Stenographers' Union, No. 1, for the repeal of the desert-land law and the commutation clause of the homestead act—to the Committee on the Public Lands.

Also, petition of the F. W. Cook Brewing Company and other citizens of Evansville, Ind., asking that navigation of the Ohio River be improved so as to provide a 9-foot draft at extreme low water from Pittsburg to Cairo—to the Committee on Rivers and Harbors.

Also, papers to accompany House bill granting a pension to Mary E. McKinnon—to the Committee on Invalid Pensions.

By Mr. GRAHAM: Resolutions of the American Chamber of Commerce, of Paris, France, in favor of the adoption of the metric system in the United States—to the Committee on Coinage, Weights, and Measures.

By Mr. HILL: Petition of Grange No. 141 and Congregational Church and other societies, all of Brookfield, and W. A. Wells and other citizens, of Winsted, Conn., to prohibit liquor selling in Government buildings, etc.—to the Committee on Public Buildings and Grounds.

By Mr. HOWELL: Petition of Tuckerton Creek Improvement Association, of Tuckerton, N. J., asking for the improvement of Tuckerton Creek—to the Committee on Rivers and Harbors.

By Mr. KNAPP: Resolution of Cigar Makers' Union, No. 124, of Watertown, N. Y., favoring the enactment of House bill 16457, relating to tobacco—to the Committee on Ways and Means.

By Mr. MAHON: Papers to accompany House bill granting an increase of pension to John W. Silks—to the Committee on Invalid Pensions.

By Mr. MOODY: Petition of J. H. Weider and 3 other druggists of Burns, Oreg., in favor of House bill 178, for reduction of tax on distilled spirits—to the Committee on Ways and Means.

By Mr. RUPPERT: Petition of Gustav Blum Lodge, No. 7, Sons of Benjamin, of New York City, relating to methods of the immigration bureau at the port of New York—to the Committee on Immigration and Naturalization.

Also, resolutions of the American Chamber of Commerce, of Paris, France, in favor of the adoption of the metric system in the United States—to the Committee on Coinage, Weights, and Measures.

By Mr. SHERMAN: Resolution of Cigar Makers' Union No. 210, of Rome, N. Y., for the enactment of House bill 16457, relating to tobacco—to the Committee on Ways and Means.

Also, petition of citizens of Boonville, N. Y., favoring the enactment of Senate bill 909, for the extension of free delivery to villages of 5,000 inhabitants, or the receipts amount to $5,000 or more—to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH of Kentucky: Papers to accompany House bill relating to the claim of G. M. D. Stoner, administrator of the estate of R. J. Stoner, deceased—to the Committee on War Claims.

Also, papers to accompany House bill for the relief of the legal representatives of Samuel A. Spencer—to the Committee on War Claims.

By Mr. SPERRY: Resolutions of Gladstone Lodge, No. 2410, Order of B'rith Abraham, of Waterbury, and New Haven Lodge, No. 73, Order of Sons of Benjamin, of New Haven, Conn., relating to method of the Immigration Bureau at the port of New York—to the Committee on Immigration and Naturalization.

By Mr. SULZER: Protest of Birnbaum Lodge, No. 288, and Jonathan Lodge, No. 77, Order of B'rith Abraham, New York, N. Y., against the exclusion of Jewish immigrants at the port of New York—to the Committee on Immigration and Naturalization.

By Mr. THOMAS of North Carolina: Petition of citizens of Craven County, N. C., for inlet waterway—to the Committee on Rivers and Harbors.

By Mr. ZENOR: Petition of George Reimann and 38 other citizens of Tell City, Ind., and vicinity, for 9-foot draft of water in the Ohio River—to the Committee on Rivers and Harbors.

SENATE.

WEDNESDAY, *February 4, 1903.*

Prayer by Rev. F. J. PRETTYMAN, of the city of Washington.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. GALLINGER and by unanimous consent, the further reading was dispensed with.

The PRESIDENT pro tempore. Without objection, the Journal will stand approved.

DIPLOMATIC AND CONSULAR APPROPRIATION BILL.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 16604) making appropriations for the diplomatic and consular service for the fiscal year ending June 30, 1904, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 17, 22, 33, 34, 37, 40, 44, 51, 63, 64, 65, 66, 67, and 70.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 38, 39, 41, 42, 43, 45, 46, 47, 48, 49, 50, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, and 68, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment, as follows: In line 1 of said amendment strike out the word "heirs" and insert in lieu thereof the words "surviving children;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 52, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$474,500;" and the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows: In lieu of the sum proposed insert "$94,400;" and the Senate agree to the same.

EUGENE HALE,
S. M. CULLOM,
JAMES H. BERRY,
Managers on the part of the Senate.
ROBERT R. HITT,
ROBERT ADAMS, JR.,
HUGH A. DINSMORE,
Managers on the part of the House.